



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 8 NOVEMBER 2005 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

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

APOLOGIES

DECLARATION OF PECUNIARY INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

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

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 18 October 2005

Minutes numbered 430 to 452

MINUTES FROM THE MAYOR

MM.1 Measures to Reduce Turn Around Times for LEP 194 Applications

1

File: S02036

One of the issues raised by Mr Sartor when he visited Ku-ring-gai was that he had been informed our processing times for LEP 194 development applications were very lengthy.

Though we were able to correct the advice that the Minister had received on these processing times in a subsequent letter to him, we nevertheless agreed to take steps to reduce our processing times even further for these very complex applications.

A number of suggestions were put to the Planning Committee meeting of 13 October 2005 in order to help reduce our processing times for LEP 194 DA's. These included:

1. Reducing our notification period (currently 30 days).
2. Broadening delegations to allow staff to refuse LEP 194 DA's on merit.
3. Simplifying assessment reports.
4. Increasing landscape referral resources.
5. Reducing internal referral turn-around times.
6. Weekly monitoring of all LEP 194 DA's by Team Leaders, Manager and Director.
7. Reducing the volume of reporting on site inspection issues in supplementary reports.
8. Progressing the review of DCP 55.

All of the above were discussed and the general consensus among Councillors was that apart from 1 (reducing the notification period), each of the measures should be pursued. It was felt by staff and Councillors that notification period is irrelevant in the sense that many assessment processes can occur concurrently with the exhibition period and so it was reasonable to allow our residents the maximum time for comment on the applications. There was also a feeling that the Urban Design Review Panel should not be pursued at this stage as this will most likely add delays to LEP 194 DA processing times.

There was clear support from Councillors for implementing the steps outlined by Director Miocic and it was acknowledged that these processes did not in any way compromise the rights of residents adjacent to the proposals while improving the speed of processing for the applicants.

PETITIONS

PT.1 Safety for Traffic Exiting 5 to 9 & 11 Everton Street, Pymble (Sixteen [16] Signatures)

3

File: 88/05429/03

"We would ask you to consider changing the existing NO PARKING restriction on the eastern side of Everton Street adjacent to the roundabout at Pymble Avenue to NO STOPPING.

This area is used by many commuters, with four wheel drives and delivery vans particularly creating a very real danger to cars exiting the above premises. There is no view of oncoming traffic until the driver is in a very vulnerable position. For traffic exiting the roundabout there is no view or warning of cars exiting the premises.

Perhaps the No Parking (Drop Off Zone) could be moved further to the south of the entrance to 5 to 9 Everton Street."

PT.2 **100 to 102 Rosedale Road, St Ives - Need for the Public Acquisition of
1 Hectare of Blue Gum High Forest (Nineteen [19] Signatures)** **4**

File: S02462

The under mentioned Petition was presented to the Hon Morris Iemma MP, Premier of NSW by members of the Probus Club of Bobbin Head Walking Group:

"We, the undersigned, have just visited the historic and beautiful St Ives Blue Gum High Forest. That such a forest has survived the government land clearance era of the early 1800's and is essentially the same as when Governor Arthur Phillip passed through it in on his first inland expedition in April 1788 is quite remarkable. The forest has been recognized by the Department of Environment and Conservation as critically endangered. It is currently being assessed for State Heritage Listing, as it has proven outstanding historical, cultural and ecological significance.

We understand that a critical 1 hectare of this forest at 100 to 102 Rosedale Road, St Ives still remains in private ownership and is subject to proposed development. The deleterious long term impacts of residential development on this land would be unacceptable in this day and age and would not be in the public interest. If development is approved, the St Ives Blue Gum High Forest will be irreparably damaged and the remarkable forest community will be lost as we know it to future generations.

It is essential this remaining 1 hectare of land is brought into public ownership. Given the immediate threats facing this forest, continued dithering and delay as each level of government claims the responsibility lies with another is unacceptable. It is time Ku-ring-gai Council and the State and Federal government representatives got together to work out a joint funding arrangement for the purchase of this important land."

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 **9, 11 & 15 Newhaven Place, St Ives - Demolition of Existing Structures on Site & Construction & Strata Subdivision of a Residential Flat Building Containing 38 Apartments & Basement Parking for 75 Vehicles** 5

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File: DA1425/04

Ward: St Ives
Applicant: De La Vega Architects
Owner: 9 Newhaven Place - R and M Underwood

To determine Development Application No. 1425/04 which seeks consent for the demolition of existing structures on site and construction and strata subdivision of 38 apartments within one building, associated access, basement parking and landscaping.

Recommendation:

Approval.

- GB.2 **1 to 7 Bruce Avenue & 6 Greengate Lane, Killara - Demolition of 4 Single Dwellings & 1 Dual Occupancy & Construction of a 5 Storey Residential Flat Building Containing 42 Units, Associated Basement Car Parking & Strata Subdivision** 87

.
File: DA0514/05

Ward: Gordon
Applicant: Colonial State Properties P/L
Owner: Energy Australia, Anthony and Joy Kennedy, Laurice Hinder, Simon and Michela Brady, Naomi Upton, Kit Yeung

To determine development application No.514/05 which seeks consent for the demolition of 4 single dwellings and 1 dual occupancy and the construction of a 5 storey residential flat building containing 42 units and associated basement car parking.

Recommendation:

Approval

- GB.3 **1405 Pacific Highway, Warrawee - Demolition of Existing Structures, Construction of a Residential Flat Building Containing 10 Dwellings & Basement Car Parking** 164

.
File: DA0706/05

Ward: Wahrenonga
Applicant: Bozorg, Baneshjoo & Parsanejad C/- Glendinning Minto & Associates P/L
Owner: Mr Bahram Bozorg, Mrs Mitra Bozorg, Mr Rahim Baneshjoo and Mrs Mahshad Parsanejad

To determine development application No 705/05, which seeks consent for the demolition of an existing dwelling and the construction of a residential flat building containing 10 units, basement car parking and landscaping.

Recommendation:

Approval

- GB.4 **497 to 507 Pacific Highway, Killara - Demolition of Existing Structures & Construction of a Residential Flat Building Comprising Forty (40) Units, Basement Car Parking & Associated Landscaping** 229

.
File: DA651/05

Ward: Gordon

Applicant: Killara Pacific Pty Ltd

Owner: C-H & S-H C Ko, S Donellan, Killara Pacific Pty Ltd

To determine Development Application No. 651/05 which seeks consent for the demolition of existing structures, the construction of a residential flat building providing 40 dwellings, including basement parking and landscaping.

Recommendation:

Approval.

- GB.5 **9 to 15 Kings Avenue, Roseville - Supplementary Report** 310

.
File: DA 1285/04

To respond to issues raised at the Council site inspection and further matters raised after the site inspection and to seek Council's determination of the development application.

Recommendation:

Approval.

- GB.6 **10A Auluba Road, South Turramurra - Lease Renewal** 416

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File: P33248

To consider the renewal of the lease to KU Children's Services for the occupation of the premises located at 10A Auluba Road, South Turramurra.

Recommendation:

That a lease be granted to KU Children's Services for a period of 5 years in the terms and conditions as outlined in this report.

GB.7 Investment Cash Flow & Loan Liability as at 30 September 2005 420

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File: S02722

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

Recommendation:

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

GB.8 Draft Local Environmental Plan No 33 (Heritage Conservation) - 23 Memorial Avenue, St Ives & 4 Munderah Street, Wahroonga 429

.
File: S04422

For Council to consider Draft (Heritage Conservation) Local Environmental Plan No 33 - 23 Memorial Avenue, St and 4 Munderah Street, Wahroonga (DLEP33) following exhibition.

Recommendation:

That Council adopt draft Local Environmental Plan No 33 (Heritage Conservation) - 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with a request that the Plan be made.

GB.9 Draft (Heritage Conservation) Local Environmental Plan No 34 - 51 Billyard Avenue, Wahroonga 445

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File: S04458

For Council to consider Draft (Heritage Conservation) Local Environmental Plan No 34 - 51 Billyard Avenue, Wahroonga (DLEP) following public exhibition.

Recommendation:

That Council adopt Draft (Heritage Conservation) Local Environmental Plan No 34 - 51 Billyard Avenue, Wahroonga and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with a request that the Plan be made.

GB.10 Draft Local Environmental Plan No 207 - Consideration of Submissions 459

.
File: S04393 P63533

To consider the submissions made in respect of the exhibition of Draft Local Environmental Plan No 207 (DLEP207) and for Council to resolve the manner in which to finalise the Draft Plan.

Recommendation:

That Council resolve to adopt the final format of DLEP207 and forward it to the Minister with the request that it be gazetted.

GB.11 Council Submission on Draft Standard LEP 472

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File: S04541

To seek Council endorsement of a submission to the Department of Planning on the Draft Standard Local Environmental Plan.

Recommendation:

That Council endorse the submission on the draft Standard Local Environmental Plan as included in Attachment A.

That a copy of the final submission be forwarded to the Department of Planning.

GB.12 Heritage Advisory Committee Minutes from Meeting held 22 August 2005 477

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File: S03816

For Council to receive and note the minutes from the Heritage Advisory Committee meeting held on 22 August 2005.

Recommendation:

That Council note the minutes of the Heritage Advisory Committee meeting held on 22 August 2005.

GB.13 Annual Tenders - Pavement Rehabilitation

487

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File: S04532

To seek Council's approval to accept the schedule of rates tender SRT2005/02 for the Pavement rehabilitation by either stabilisation or reconstruction.

Recommendation:

That the tender rates submitted by Stabilised Pavements of Australia Pty Ltd for Pavement rehabilitation by stabilisation be accepted and tenderers be advised of Council's decision.

GB.14 Concessional Green Fees Licence to Gordon Golf Club Limited - Off Peak Course Usage - Access Times

492

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File: S02141

To advise Council of the result of the public notification procedure and the request from Gordon Golf Club to review the off peak course usage times and fees associated with the licence agreement for concessional green fees.

Recommendation:

That Council grant a separate licence to the Club for concessional green fees for club members in off peak course usage periods during Monday to Friday, excluding public holidays and re-exhibit the proposed licence in accordance with the Local Government Act 1993.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 Extinguishment of a Council Easement by Rezoning

501

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File: S04019

Notice of Motion from Councillor T Hall dated 20 October 2005.

I move:

"That Council prepare a draft LEP, to be included in current drafts under consideration, for the zoning of the (unzoned) pathway easement between Newhaven Place and Link Road, St Ives, created in a 1965 subdivision but now in disuse, as Res (2d3) to match adjoining Res (2d3) zoned lands and to reclassify the land from community land to operational land and to provide a public benefit with its disposal."

NM.2 Oversight of Mayoral Correspondence

502

File: S02792

Notice of Motion from Councillor T Hall dated 31 October 2005.

I refer to the Mayor's reply to the National Trust supporting the Trust's refusal to allow its name on Ku-ring-gai Council street signs as reported in the North Shore Times, notwithstanding a Council resolution not to heritage list 2 properties in Richmond Avenue St Ives was the grounds for the Trusts refusal and about which resolution the Mayor omitted to inform the Trust in her reply 21st September 2005.

I move that:

"All Mayoral correspondence with the external authorities be circulated for consideration by Councillors before dispatch."

NM.3 Planning St Ives Centre

503

File: S04019

Notice of Motion from Councillor L Bennett dated 31 October 2005.

I move:

- "A. That the preliminary exhibition of the planning material for the St Ives Centre include a Public Domain Plan which does not have any retail, residential or commercial development on what is now community land.
- B. That the maximum floor space for additional retail and commercial development to be placed on preliminary exhibition for the St Ives Centre not exceed the amount as resolved by Council on 19th July 2005.
- C. That commercial floor space be provided for as part of the mixed zoning as per the Council Report in the 19 July Business Papers.

- D. That the increase in retail floor space as resolved on the 19th July be clarified to mean an increase in gross floor area.
- E. That Council write to NSROC to seek its views as to whether the increase in retail/commercial recommended by the retail study is viable on a regional rather than simply a local basis."

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

** ** *

Environmental Planning & Assessment Act 1979 (as amended)

Section 79C

1. Matters for consideration - general

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

a. The provisions of:

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

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

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

MAYORAL MINUTE

MEASURES TO REDUCE TURN AROUND TIMES FOR LEP 194 APPLICATIONS

One of the issues raised by Mr Sartor when he visited Ku-ring-gai was that he had been informed our processing times for LEP 194 development applications were very lengthy.

Though we were able to correct the advice that the Minister had received on these processing times in a subsequent letter to him, we nevertheless agreed to take steps to reduce our processing times even further for these very complex applications.

A number of suggestions were put to the Planning Committee meeting of 13 October 2005 in order to help reduce our processing times for LEP 194 DA's. These included:

1. Reducing our notification period (currently 30 days).
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3. Simplifying assessment reports.
4. Increasing landscape referral resources.
5. Reducing internal referral turn-around times.
6. Weekly monitoring of all LEP 194 DA's by Team Leaders, Manager and Director.
7. Reducing the volume of reporting on site inspection issues in supplementary reports.
8. Progressing the review of DCP 55.

All of the above were discussed and the general consensus among Councillors was that apart from 1 (reducing the notification period), each of the measures should be pursued. It was felt by staff and Councillors that notification period is irrelevant in the sense that many assessment processes can occur concurrently with the exhibition period and so it was reasonable to allow our residents the maximum time for comment on the applications. There was also a feeling that the Urban Design Review Panel should not be pursued at this stage as this will most likely add delays to LEP 194 DA processing times.

There was clear support from Councillors for implementing the steps outlined by Director Miocic and it was acknowledged that these processes did not in any way compromise the rights of residents adjacent to the proposals while improving the speed of processing for the applicants.

RECOMMENDATION

- A. I move that the following measures to further reduce processing times for LEP 194 applications be supported:
 1. Retention of the current pre DA lodgment meetings to assist applicants to lodge good quality development applications.

Item 1

S02036
28 October 2005

2. That the Director and his staff work on a more succinct LEP 194 assessment report template and assessment guide. This should be completed within two weeks.
 3. That the Director Open Space pursue measures to increase Landscape referral resources for LEP 194 DAs. This should be effected within the next 2-3 weeks.
 4. That guarantees of service for all internal referral response timeframes on LEP 194 DAs will be established. A maximum timeframe of 21 days is considered to be achievable but this will be further discussed with all referral officers.
 5. That a weekly LEP 194 DA status/monitoring meeting be introduced, involving the Assessment Team Leaders, Director and Manager Development Assessment Services. The objective will be to ensure close monitoring of each LEP 194 DA. It will be the Team Leader's responsibility to be fully acquainted with the status, issues and likely completion timeframe for each LEP 194 DA within their team area. The first such meeting will occur at 10.00 am, Thursday 3 November 2005.
 6. A monthly report on progress with reducing processing times for LEP 194 matters will be sent to Mr Sartor's office.
- B. That Council modify the existing delegations, enabling staff to refuse LEP 194 DAs on merit.

I also note that Councillors have undertaken to attempt to reduce the number of matters that they want further addressed in supplementary reports following site inspections

Elaine Malicki
Mayor

PETITION

SAFETY FOR TRAFFIC EXITING 5 TO 9 & 11 EVERTON STREET, PYMBLE (SIXTEEN [16] SIGNATURES)

"We would ask you to consider changing the existing NO PARKING restriction on the eastern side of Everton Street adjacent to the roundabout at Pymble Avenue to NO STOPPING.

This area is used by many commuters, with four wheel drives and delivery vans particularly creating a very real danger to cars exiting the above premises. There is no view of oncoming traffic until the driver is in a very vulnerable position. For traffic exiting the roundabout there is no view or warning of cars exiting the premises.

Perhaps the No Parking (Drop Off Zone) could be moved further to the south of the entrance to 5 to 9 Everton Street."

RECOMMENDATION

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

PETITION

100 TO 102 ROSEDALE ROAD, ST IVES - NEED FOR THE PUBLIC ACQUISITION OF 1 HECTARE OF BLUE GUM HIGH FOREST (NINETEEN [19] SIGNATURES)

The under mentioned Petition was presented to the Hon Morris Iemma MP, Premier of NSW by members of the Probus Club of Bobbin Head Walking Group:

"We, the undersigned, have just visited the historic and beautiful St Ives Blue Gum High Forest. That such a forest has survived the government land clearance era of the early 1800's and is essentially the same as when Governor Arthur Phillip passed through it in on his first inland expedition in April 1788 is quite remarkable. The forest has been recognized by the Department of Environment and Conservation as critically endangered. It is currently being assessed for State Heritage Listing, as it has proven outstanding historical, cultural and ecological significance.

We understand that a critical 1 hectare of this forest at 100 to 102 Rosedale Road, St Ives still remains in private ownership and is subject to proposed development. The deleterious long term impacts of residential development on this land would be unacceptable in this day and age and would not be in the public interest. If development is approved, the St Ives Blue Gum High Forest will be irreparably damaged and the remarkable forest community will be lost as we know it to future generations.

It is essential this remaining 1 hectare of land is brought into public ownership. Given the immediate threats facing this forest, continued dithering and delay as each level of government claims the responsibility lies with another is unacceptable. It is time Ku-ring-gai Council and the State and Federal government representatives got together to work out a joint funding arrangement for the purchase of this important land."

RECOMMENDATION

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

Item 1

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	9, 11 AND 15 NEWHAVEN PLACE, ST IVES - DEMOLITION OF EXISTING STRUCTURES ON SITE AND CONSTRUCTION AND STRATA SUBDIVISION OF A RESIDENTIAL FLAT BUILDING CONTAINING 38 APARTMENTS AND BASEMENT PARKING FOR 75 VEHICLES
WARD:	St Ives
DEVELOPMENT APPLICATION N^o:	1425/04
SUBJECT LAND:	9, 11 and 15 Newhaven Place, St Ives
APPLICANT:	De La Vega Architects
OWNER:	9 Newhaven Place - R and M Underwood 11 Newhaven Place - R & W Sharp 15 Newhaven Place - M Dowsett
DESIGNER:	De La Vega Architects
PRESENT USE:	Residential
ZONING:	Residential 2(d3)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO - LEP194, DCP31 - Access, DCP55 - Ku-ring-gai Multi-unit Housing, DCP 40 - Waste Management. DCP 43 and DCP 47
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	SEPP1, SEPP 55, SEPP65
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	24 December 2004
40 DAY PERIOD EXPIRED:	2 February 2005
PROPOSAL:	Demolition of existing structures on site and construction and strata subdivision of a residential flat building containing 38 apartments and basement parking for 75 vehicles
RECOMMENDATION:	Approval

Item 1

DEVELOPMENT APPLICATION N^o 1425/04
PREMISES: 9, 11 AND 15 NEWHAVEN PLACE, ST IVES
PROPOSAL: DEMOLITION OF EXISTING STRUCTURES
ON SITE AND CONSTRUCTION AND
STRATA SUBDIVISION OF A
RESIDENTIAL FLAT BUILDING
CONTAINING 38 APARTMENTS AND
BASEMENT PARKING FOR 75 VEHICLES
APPLICANT: DE LA VEGA ARCHITECTS
OWNER: R. & M. UNDERWOOD, R. & W. SHARP,
AND M. DOWSETT
DESIGNER DE LA VEGA ARCHITECTS

PURPOSE FOR REPORT

To determine Development Application No. 1425/04 which seeks consent for the demolition of existing structures on site and construction and strata subdivision of 38 apartments within one building, associated access, basement parking and landscaping.

EXECUTIVE SUMMARY

Issues: Zone interface (clause 25L of LEP 194), length of the building.

Submissions: Thirty-two (32) letters of objection to the original proposal and six (6) submissions to the amended plans.

Pre-DA Consultation: Yes

Land & Environment Court Appeal: Proceedings No. 10373 of 2005.
A deemed refusal appeal was lodged on 26 April 2005.
This appeal was withdrawn on 30 June 2005.

Recommendation: Approval

HISTORY

Site history:

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

Development application history:

DA1425/04

14 October 2004

Pre-development application consultation held between Council officers and applicant.

Item 1

- 24 December 2004 Application lodged.
- 12 January 2005 Request from Council to the applicant to provide the following:
- Full Traffic Impact Assessment for the development prepared by a consulting civil/traffic engineer. The report shall be prepared in accordance with section 2.3 of the RTA “Guide to Traffic Generating Developments”
 - A Stormwater Management Plan in accordance with Water Management DCP 47
 - Full scale drawings of Site Plan, Landscape Plan, and Tree Location Plans to the scale of 1:100
 - Tree Protection Plan showing tree protection zones in relation to the proposed development and consistent with Appendix 5 of the Arborist’s report
 - Architectural Plans and Survey Plan to the scale 1:100
 - Access Report from a suitably qualified consultant to ensure the compliance with council’s DCP31 Access
 - Certification from the utility companies responsible for the provision of electricity, telecommunications and water/sewer
- 10 February 2005 Some information was submitted. The 1:100 landscape plans were submitted in June 2005.
- 26 April 2005 Appeal against Council’s deemed refusal of the application filed in the Land and Environment Court. The appeal was lodged on the 42nd day of the application being with Council.
- 30 June 2005 Appeal withdrawn.
- 31 August 2005 Amended plans received by Council.

THE SITE AND SURROUNDING AREA

The Site

Zoning:	Residential 2(d3)
Visual Character Study Category:	1945-1968
Lot Number:	5, 6 and 7
DP Number:	225420
Area:	3,434m ²
Side of Street:	Western
Cross Fall:	slight slope to the rear
Stormwater Drainage:	Easement to the rear of the site

Item 1

Heritage Affected:	No
Required Setback:	10-12 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	Remnant Turpentine Ironbark Forest

Dimensions and topography

The subject site is irregular in shape and is located on the western side of Newhaven Place, towards the middle of the cul-de-sac. The site comprises three allotments of land known as Lots 5, 6 and 7 in DP 225420. The site has an area of 3,434m² and has a frontage of approximately 60 metres to Newhaven Place.

Existing landscaping comprises lawns with some shrubs and mature trees including a number of Turpentine trees in the south-western corner.

Zoning and surrounding land uses

A zoning map is attached to this report. The site forms part of the Pacific Highway and railway corridor and St Ives centre, an area that comprises low density residential development that was rezoned to residential 2(D3) for multi-unit residential development under LEP 194. All boundaries of the site are shared with properties that are similarly zoned, with the exception of 11 Newhaven Place, which adjoins a portion of land zoned residential 2(c), classified as community land, comprising mature trees and shrubs, and in turn adjoins the Recreation 6(a) zoned land to the west.

Existing development surrounding the site comprises a mix of one and two storey dwelling houses. Council approvals for residential flat buildings have been recently been given for 1, 3, 5 and 7 Newhaven Place (DA 1294/04) adjoining the subject site to the north, and 23 Newhaven Place (DA 239/05) which is three blocks to the east of 15 Newhaven Place.

THE PROPOSAL

The proposal includes the demolition of the existing dwelling houses and associated structures on the site and the erection of a single, five (5) storey, residential flat building with two levels of basement car parking. The development is oriented towards Newhaven Place, with access being provided off Newhaven Place. The development proposes a total of 38 units including a mix of one x 1 bedroom unit, 10 x two bedroom units and 27 x three bedroom units. All the units have been orientated to maximise solar access and natural ventilation.

In detail, the development is as follows:

Basement Level 2

Basement Level 2 comprises 35 car parking spaces, plant room and lift and stairway access within two lift lobby areas.

Item 1

Basement Level 1

Basement Level 1 comprises 40 car parking spaces, plant room, garbage storage areas and lift and stairway access to two lift lobby areas. Access to basement Level 1 is off Newhaven Place.

Level 1

Level 1 contains 8 units. Due to the elongated shape of the development the building is divided into two sections with the northern lift core servicing 5 units and the southern lift core servicing 3 units.

Levels 2, 3 and 4

The first, second and third levels contain eight units each. The floor layout is similar to Level 1.

Level 5

The top floor level contains 6 units, with each lift core servicing 3 units. This level is well set back from the walls of the level below.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, owners of the surrounding properties were given notice of the application. Due to the Christmas/School Holiday period, the notification was extended until 18 February 2005. In response, submissions from the following were received to the original plans:

Name	Address
Mr Alan A M Onslow	PO Box 268 St Ives, 2075
Ms I Stening	"Coppins" 2/5 Gillott Way
Mr and Mrs P Rogers	47 Stanley Street
SM & H Gruenewald	28 Gillian Parade, West Pymble 2073
Ms J Hanson	The Tines 18/18 Stanley Street
S Campbell	16/5 Gillott Way
M Zuiderwyk	6 Gillott Way
W V Young	"Coppins" 4/5 Gillott Way
R Nettleship & E Wilson	49 Stanley Street
Mr and Mrs L Clavin	14/18-22 Stanley Street
Mr R and Mrs P Lawson	8/18-22 Stanley Street
Dr T Burfitt-Williams	43 Douglas Street
Mrs J Street	25a Stanley Street
Mrs B Meyerson	16/2 Stanley Street
Mr C S Oud	2 Wandeen Place
Dr D M & Mrs E Turner	3/16 Stanley Street
Corpus Christi Cathedral Attn: Fr. Jack	263 Mona Vale Road
R Abbott	8 Collins Road
St Ives Occasional Care	261 Mona Vale Road

Item 1

Name	Address
M P Kearns	46 Hunter Avenue
C & P Steele	6/16 Stanley Street
Mrs J Kenny	7/24 Stanley Street
Monterey Strata Plan 67372	24 Stanley Street
Woodhut Pty Ltd	40 Monteith Street, Turramurra 2074
D M A O'Keefe	5/16 Stanley Street
M Slocombe	79 Woodbury Road
P Dalton	7 Byron Avenue
R & C McCarthy	PO BOX 479, Wahroonga 2076
J Tobin, Corpus Christi School	17 Link Road
P F Aquilina	9/24 Stanley Street
Mrs K Kelleher	68 Junction Road, Wahroonga 2076
C Miller	44 Hunter Avenue

The submissions included the following comments:

If this development is not halted now, the monetary gain available from the construction of high rise residential flats under LEP 194 will guarantee an influx of many more Development Applications for the St Ives area.

This is not a valid development assessment consideration under s.79C of the Environmental Planning and Assessment Act. 1979.

The development being proposed threatens the quality of the environment and life-style that currently exists and the development is not in keeping with the green and leafy character of St Ives.

The subject land was rezoned residential 2(d3) under LEP 194. This zoning allows for residential development of up to five storeys. The site is located adjacent to other residential 2(d3) zoned along Newhaven Place (refer to the **zoning extract**).

Compliance with the required minimum side boundary setbacks, deep soil landscaping area and external material and finishes ensures the development is appropriate in terms of bulk and scale with regard to adjoining properties. The inclusion of substantial landscaping on the site will meet the aims of LEP 194 and DCP 55 as described in Section 1.6.

Effect of the development on traffic along Newhaven Place.

The rezoning of this site under LEP 194 to permit medium density development confers a development potential pursuant to the development standards and controls set out in LEP 194 and DCP 55. In accordance with these statutory planning and policy controls, sites within the Residential 2(d3) zone have the potential to be developed for the purposes of residential flat buildings to a maximum height of five storeys and a footprint of 35% of the site area. The intent of rezoning for multi-unit development is to establish medium density living in proximity to transport nodes, educational and health facilities and local business centres.

Item 1

Any cumulative impacts on residential character and density resultant from development of the subject site and similarly zoned allotments in accordance with LEP194 and DCP 55 provisions were therefore anticipated and have been provided for in the zoning.

The proposal is consistent with the objectives of SEPP 65, The Residential Flat Design Code, LEP194 and DCP 55 and will not result in a cumulative impact beyond that which is provided for under the zoning and associated controls that apply to the site.

Privacy impacts on the communal garden, private gardens, ground-floor and windows on the upper-floors of 'the Coppins'.

The proposed development does not have a common boundary with the Coppins development, is set back at least 6 metres from all its own boundaries, and is set back at least 15 -20 metres from the Coppins development. The combination of extensive landscaping proposed for the subject property and the existing mature landscaping in the public reserve will ensure any overlooking is minimised.

Overshadowing and view loss impacts on the Coppins development.

The proposed development is well to the south-east of the Coppins development, which would therefore have no solar impacts on the Coppins development. The extent of view loss is minor as this area is reasonably flat and the proposed building does not impact on all the views from 'the Coppins'.

Unightly garbage bins and noise during construction.

The garbage bins will be stored within a dedicated section of the basement and collection will be made directly from the basement. This will prevent the need for the storage of bins on the sidewalk and/or roadside.

A condition restricting building to acceptable hours has been recommended (**refer to Condition No. 5**).

Imbalance to the socio-economic mix of residents in the area.

The aim of the LEP 194 zone together with SEPP 65 (Principle 9) encourages a mix of people and families living in proximity to each other. The various sizes of the units (one, two and three bedrooms) will cater for this mix.

Impact on Turpentine trees on the site and the adjacent nature reserve.

This is addressed by Council's Landscape Development Officers, Steve Fenn and Geoff Bird, who raised no concerns on these grounds.

Whilst a few trees typical of the Sydney Turpentine Ironbark Forest (STIF) are present on the site, the vegetation does not possess a natural bushland structure and does not constitute a STIF

Item 1

community. Most of the existing Turpentine trees on site will not be affected nor will the adjacent nature reserve.

No evidence of any threatened flora species was recorded in the Arboricultural Assessment prepared by Earthscape Horticultural Services (*EHS*).

This has been confirmed by Council's Landscape Development Officers, Steve Fenn and Geoff Bird (see Consultation –within Council). The group of 10 *Syncarpia glomulifera* (Turpentine), located close to the site's south-eastern corner, forms part of a larger stand of *Syncarpia glomulifera* (Turpentine) that extends across the rear garden of No.17 Newhaven Place. While the health and condition of individual trees within this group vary, removal of individual trees from it would devalue its intrinsic character as a whole. Three trees, of this group of Turpentine are nominated for removal as they have been identified by the applicant's Tree Consultant: Earthscape Horticultural Services as having poor health and short life expectancy.

Given the already modified nature of the subject site and its urban context, the proposed development will not impose adverse impacts upon the natural environment at this location.

Electricity supply is inadequate

The application was referred to Energy Australia who raised no objections. A condition is recommended requiring the applicant to liaise with Energy Australia regarding their power supply requirements and to allocate space for a small 'kiosk' type substation. These requirements must be obtained prior to Construction Certificate issue. **(See Condition No 60).**

Adverse noise impacts from excavation works.

Based on the preliminary geotechnical report and location of excavation on site, Council's Development Engineers are satisfied that the geotechnical and excavation construction aspects of this proposal can be addressed through suitable conditions of consent. These conditions will require geotechnical and hydro-geological monitoring, excavation, construction and further professional geotechnical input as warranted.

A condition is also recommended which will require ongoing investigation by a consulting geotechnical engineer, with action as appropriate. Dilapidation reports are to be completed on neighbouring properties and infrastructure **(See Conditions Nos 101, 102 and 103).**

Disruption during construction works (Impact of construction vehicular and noise)

A detailed construction and traffic management plan is required via a condition of consent, for review and approval by Council Engineers prior to the commencement of any works on site **(refer Condition No. 104).**

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:

Item 1

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

Refer Condition No. 5

The appearance of the proposed building is aesthetically displeasing.

In the absence of a Design Review Panel provided by SEPP 65, the application was referred to Council's Urban Design Consultant, Russell Olsson. Mr. Olsson finds that the proposal satisfactorily addresses all ten SEPP 65 Design Principles and he considers the design to be of a sound standard.

The loss of values to the properties in the area.

This is not a valid development assessment consideration under s.79C of the Environmental Planning and Assessment Act. 1979.

Energy efficiency

The environmental performance of the development is acceptable considering the awkward orientation of the site. The proposal has, through careful unit arrangement, stepping of the building and by limiting building depth, achieved a good climatic responsive outcome. Over 90% of the units achieve a NatHERS rating of 4.5 stars.

Stormwater impacts

Council's Development Engineer is satisfied that the Stormwater Management Plan proposed is satisfactory, complies with DCP 47 and will not result in adverse drainage impacts. Because of the need for the terms of the downstream drainage easement to be amended, which requires Council's consent as well as that of the downstream owner, a deferred commencement consent has been recommended.

Amended plans

Amended plans which reduce the built upon area (from 37% to 35%) and reduced upper level (60% of the floor below and set back all the upper floor from all the lower walls) were notified on 31 August 2005. Six (6) submissions were received from the following residents:

Diana McCrae
Peter and Robyn Rodgers
Christine Foster, President

9/24 Stanley Street
47 Stanley Street
St Ives Occasional Care, 261 Mona Vale Rd

Item 1

Mr. B. S. Tall and Mr. I. J. Grieve

Executive Committee, Strata Plan 67372 5/24
Stanley Street

Ms D Quin

21 Newhaven Place

Dr Sarzecki and Mrs O. Katchan

8 Newhaven Place

These submissions did not raise any additional issues to those considered above.

CONSULTATION - WITHIN COUNCIL

Urban Design Consultant

Council's Urban Design Consultant, Russell Olsson, has commented on the proposal in the context of SEPP 65 and Residential Flat Design Code considerations, as follows:

Principle 1 - Context

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

The landscape context is comprised of large scale existing trees in the front and rear yards of houses in Newhaven Place. Approximately 10 existing trees in the front yards are to be retained in this application, and approximately 5 existing trees in the rear yards are to be retained. These will be supplemented with substantial numbers of new trees in deep soil.

The built form context is to be 5 storey buildings in the 2(d3) zone. The proposed development will be compatible in height with these future buildings.

Principle 2 – Scale

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

This building is 60m long, and is likely to be the longest building in this 2(d3) zone. The DCP objective is to have relatively short buildings (36m). A reduction in building length would reduce the scale of the building. The upper floor should be setback from all the lower walls.

Discussions were held with Mr Russell Olsson and the architect/applicant Mr Alejandro de la Vega on this matter. Breaking the building into two separate buildings could not be achieved on this site as it would have further impacts on setbacks and privacy issues

Item 1

between the two buildings. Amended plans were submitted setting the upper floor further back from all the lower walls, with the area not being more than 60% of the lower floor. Mr Olsson assessed these amendments and found them satisfactory.

Principle 3 - Built Form

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

The building complies with the front side and rear setbacks. The facades are reasonably well articulated in plan.

The intention in the DCP of the 60% building footprint cover by the top floor is to set back the top floor to reduce its visual impact. The proposed setback is minimal and insufficient. The orange colour is too visually prominent in this context. The top floor should be narrower, with no central break between the apartment "clusters", and the colour changed to be more compatible with the colours of the natural environment.

Mr. Russell Olsson was satisfied with the amended plan being 60% of the floor below with all the walls setback from the walls below.

Mr de la Vega explained that the "orange" colour is not in fact orange, but represents timber finishes and should read as such. Mr. Olsson was satisfied with these materials which would be compatible within the canopy tree setting.

Principle 4 – Density

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

The density is excessive. There is no justification for 37% site cover and an FSR of 1.45:1. The density should be reduced to comply with the controls, and to reduce the scale of this excessively long building.

The amended plans reduced the site cover to 35% and the FSR to 1.29: 1.

Principle 5 - Resources, Energy and Water Efficiency

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

The east-west orientation of all the apartments allows more than 2 hours sunlight to more than 70% of living rooms/balconies between 9am and 3pm in midwinter.

Item 1

More than 60% of apartments are naturally cross ventilated.

A water tank, storm water detention and AAA rated shower saving devices have been provided, however none of these items are shown on the architectural drawings.

Amended plans were provided which included water tank, storm water detention and AAA rated shower saving devices.

Principle 6 – Landscape

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

The landscape design is acceptable. The driveway is well located under the building footprint.

Principle 7 – Amenity

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

Acceptable.

The east-west orientation of all apartments allows more than 2 hours sunlight to more than 70% of living rooms/balconies between 9am and 3pm in mid-winter.

More than 60% of apartments are cross ventilated.

While balconies are only 2m long, and this reduced width (from the 2.5m control) may be accepted.

Principle 8 - Safety and Security

‘SEPP 65: Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising activity on the streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.’

There are no safety and security issues with this proposal.

Principle 9 - Social dimensions

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

Item 1

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

*A reasonable mix of apartments has been provided to allow housing choice.
The apartment sizes are appropriate.*

Principle 10 – Aesthetics

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

The building's base, middle and top definition through materials and colour is appropriate, and the facades are well articulated vertically with set backs and blade walls.

The base colour is appropriate to the natural setting, however the top floor colour is too prominent, and the top floor should be set back further from the facade.

Amended plans were discussed with Mr Olsson who is completely satisfied with both the setback as well as the materials and colour.

Landscaping

Council's Landscape and Tree Assessment Officers, Steve Fenn and Geoff Bird, have commented on the proposal as follows:

Amended Plans – Deep Soil Zone

The paved court yards have been deleted and the decking areas reduced in width so that they do not extend beyond the footprint of the basement car park. As a result of these amendments the proposal now complies with a deep soil zone of 50%. These amendments are therefore considered satisfactory.

Removal/impact upon trees

Twenty six of the 48 trees shown on the Landscape Planting Plan prepared by Context Landscape Design and dated December, 2004 are located within the subject site. Eight of the 10 onsite trees requiring removal for construction of the residential building, including basement carparks, and installation of the rainwater reuse tank, as proposed, are remnant locally occurring native canopy trees from the Sydney Turpentine/Ironbark Forest Vegetation Community.

Item 1

Removal of a 5 metre high row of Camellia sasanqua (Chinese Camellia) that extends between the front boundary and the southern side of the dwelling at No. 9 Newhaven Place is unavoidable and supported. The plants would require extensive pruning to transplant.

The group of 10 Syncarpia glomulifera (Turpentine), located close to the site's south-eastern corner, forms part of a larger stand of Syncarpia glomulifera (Turpentine) that extends across the rear garden of No.17 Newhaven Place. While the health and condition of individual trees within this group vary, removal of individual trees from it would devalue its intrinsic character as a whole.

Five trees, of this group of Turpentine are nominated for removal as they have been identified by the applicant's Tree Consultant: Earthscape Horticultural Services as having poor health short life expectancy and condition and/or life expectancy. Proposed removal of 3 of these trees is in addition to the 10 trees proposed to be removed for the development works.

One Liquidambar styraciflua (Liquidambar) #22, of 14 metres height, fair form, healthy condition and located close to the site's south-eastern corner, is proposed for retention despite being exempt, and 1 Prunus campanulata (Taiwanese Cherry) – 5, an insignificant tree, is identified as being located within the subject site, however, it is located just inside No.7 Newhaven Place.

Stormwater plan

Proposed grading to storm water pits (SWP) along the eastern side of the storm water line within the protection zone of the 6 Syncarpia glomulifera (Turpentine), located at the Newhaven Place frontage, is not supported due to the site's gentle south-western slope. The SWP are to be set flush with the existing ground levels. Grading may be effected between the building and the pits.

The proposed underground rainwater reuse tank should abut the south-eastern end of the residential building to avoid removing Trees 49 and 50 of the group of Syncarpia glomulifera (Turpentine) located close to the site's south-western corner.

Landscape plan

A landscape plan and planting plan has been submitted with the application. Tree replenishment for the site is varied and consistent with native species that are endemic to the area, which in time will restore and enhance the treed canopy of the site.

Screening to and from the site will be achieved with a mix of canopy trees and an understorey planting of screening shrubs. This will provide filtered views to and from the site.

Overall the landscape proposal can be supported.

(Refer Conditions Nos 43-49, 72-78, 89-98 and 108-111).

Engineering

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

Item 1

The application is for the demolition of the existing dwellings and the construction of a residential flat building comprising 38 units: 1x1br, 12x2br and 25x3br.

Strata subdivision has not been included in the development application.

The following documentation has been used in the assessment:

- *Anthony Betros Consulting Statement of Effects, December 2004;*
- *De la Vega Architects drawings DA-001 to DA-005, all Rev. A, July 2005;*
- *Warren Smith & Partners Stormwater drainage plans C-01 & C-02, C-08 & C-09, C-12 to C-15, all Revision B;*
- *Geotechnique Report 10634/1-AD, dated 17 December 2004 (for 30-34 Stanley Street);*
- *Transport and Traffic Planning Associates Report (Statement of Evidence), dated July 2005;*

The application is supported with conditions. Because of the need for the terms of the downstream drainage easement to be amended, which requires Council's consent as well as that of the downstream owner, a deferred commencement consent is recommended.

Stormwater management

There is a Council drainage easement along the southern boundary of 15 Newhaven Place, which is continued through 30 Stanley Street. The terms of both easements currently permit only runoff from Newhaven Place to be drained through the pipe. The easement through 30 Stanley Street needs to be amended to permit the passage of runoff from private properties. Council's approval to amend the terms is to be obtained prior to operation of the consent since the development depends on a legal right of drainage over this system.

The stormwater design submitted shows a retention/ re-use tank of 76m³, with 51m³ of on site detention proposed in a number of above-ground storages in the rear courtyards. It is likely that Council's Landscape Development Officer will prefer a different arrangement for detention storage, possibly by combining the two in a larger, split tank, in order to optimize the deep soil zone. The stormwater plans are not to be stamped with the DA plans. If recommended by the Landscape Development Officer, amended stormwater plans could be submitted with the landscape plans lodged to satisfy the deferred commencement condition recommended.

Retained roofwater is to be re-used for toilet flushing, clothes washing and irrigation. The plans appear to show the retention tank overflowing into the downstream system. The retention tank should overflow into the detention system. The pits along the southern boundary appear to be located to collect overland flow associated with the drainage easement. It is more desirable for this not to occur. The recommended conditions cover these matters so that they can be brought to the attention of the designing engineer for the preparation of the Construction Certificate drawings.

There is an interallotment drainage easement along the rear boundary of the site. The proposed works are clear of this easement. If fences are proposed over the easement, gaps should be

Item 1

provided underneath to allow for overland flow to follow the easement. This should be shown on the Construction Certificate drainage plans and has been included in the recommended conditions.

Traffic generation

The applicant has submitted a cumulative traffic assessment covering the likely effect of all developments planned for Newhaven Place on conditions at the Link Road/ Newhaven Place intersection. The subject development is estimated to generate between 18 and 23 vehicle trips per peak hour, with the total for all developments estimated to be between 96 and 121 vehicle trips per peak hour, with the usual distribution of 80% of trips out in the am peak, and 75% of trips in during the pm peak. This traffic generation was modelled at the intersection using the INTANAL program and found not to change the level of service from good (minimal delay).

Vehicular access and parking

The development requires 65 resident and 10 visitor parking spaces, which have been provided.

*No site-specific traffic report appears to have been provided with the application. The dimensions and grades of parking spaces and ramps appear to be adequate and to comply with AS2890.1:2004. A traffic signal control is proposed between the basement levels. This is appropriate given the low traffic generation. The small waste collection vehicle will only need access to the upper basement level, so will not be affected by the signal. A security gate seems to be shown at the entry. This will not be approved, and this is included in the recommended conditions (**refer Condition No. 82**).*

Construction management

A detailed construction management plan will be required before the commencement of any works on the site.

Because of the left in/ left out nature of the intersection of Newhaven Place with Link Road, a condition prohibiting deliveries to the site during school drop-off and pick-up hours is not considered necessary for this application. A works zone will probably be required in Newhaven Place. The procedure for implementing this is given in the recommended conditions.

Geotechnical

No geotechnical report seems to have been submitted for this specific site, however a letter report based on a desktop study was prepared by Geotechnique for 30-34 Stanley Street (DA 1423/04), for the same applicant, so it has been used for this assessment. The report uses information from a subsurface investigation carried out for 1-7 Newhaven Place so is considered applicable to the subject site.

The site appears to be close to the boundary between Ashfield Shale and Hawkesbury Sandstone, and may be underlain by interbedded shale and sandstone, possibly of the Mittagong Formation. Variable strengths are likely to be encountered, so matters such as vibration and excavation support will need to be considered before and during excavation works. Boreholes will be required

Item 1

to confirm subsurface conditions. The best time for drilling will be after demolition and before commencement of bulk excavation works.

The nearest structures are 7 and 17 Newhaven Place. Dilapidation reports on both these houses will be required. Approval has already been given for a unit development at 1-7 Newhaven Place, so if either or both of the houses has been demolished, no dilapidation report will be necessary.

Drainage easement

The applicant is to obtain the approval of Council to amend the terms of the drainage easement over the downstream property to permit the passage of private property runoff. Council's approval is to be given prior to the operation of the consent. This will require the submission of the owner's written consent and an engineer's report which attests to the capacity of the system to accept such runoff. The relevant fee for the preparation of a report to Council is to be paid with the application. No guarantee is given of approval.

(Refer Conditions Nos 50-65, 79-87, 99-106, 89-98 and 108-111).

STATUTORY PROVISIONS

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

The application includes a design verification statement by the architect Alejandro de la Vega of de la Vega architects Pty Ltd. Mr de la Vega has verified that he is a qualified designer and member of the NSW Architects Registration Board and has designed the proposal in accordance with the design quality principles set out in Part 2 of SEPP65.

The application has been assessed in terms of the Design Quality Principles set out in SEPP65. The design quality principles do not generate design solutions but provide a guide to achieving good design and the means of evaluating the merit of the proposal. The assessment is summarised as follows:

Context:

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

The site is located within a cul-de-sac on the southern side of Link Road. It's approximately 400 metres from the St Ives commercial area. Masada College sits directly across Link Road.

The immediate neighbouring properties include a collection of single residential dwellings of no particular architectural merit, 1 and 2 storeys in height, and of no historical/heritage importance.

Item 1

Substantial areas of open space, recreational facilities, the St Ives library and the community centre are located within the St Ives village centre approximately 400m away. These will offer future residents of this area recreational and community facilities.

The site comprises three (3) allotments. The address for all the lots is limited to the Newhaven Place frontage. As with all of the surrounding area, the lots contain mature vegetation, the majority of which will be retained. The land is not within an Urban Conservation Area and does not contain any heritage item.

The facades have been broken up into three parts, a sandstone base up to level one, three levels of white masonry and a masonry floor clad in stained timber. The purpose being to accentuate the horizontal, reduce scale and to blend with the canopy trees in the area.

The development is permissible and complies with the prescribed requirements of LEP194, including maximum height, site coverage, number of storeys and deep soil landscaping. The building setback to Newhaven Place is also acceptable.

Scale:

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

The scale of the development is appropriate and is consistent with the desired character of the area.

Built form:

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

The development is of an appropriate scale, compatible with approved development applications for residential flat buildings (1-7 Newhaven Place and 23 Newhaven Place) and further potential development in the locality. The proposed building is five storeys with appropriate setbacks from the site boundaries.

Architectural relief is provided through horizontal and vertical articulation by offset walls, balcony designs and varying window proportions to avoid a purely functional appearance and reduce bulk.

Density:

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

Item 1

Acceptable. The density complies with DCP55.

Resource, energy and water efficiency:

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

Acceptable. The environmental design aspects of the proposal comply with SEPP 65 and Residential Flat Design Code guidelines.

Landscape:

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

The proposal provides for 1,824m² or 53.12% of the site being a deep soil zone which is well compliant with the minimum requirement of 50%. The primary deep soil zone is provided to the rear/side of the site and measures more than 600m². The bulk of the deep soil area is common open space and it's ability to accommodate large canopy trees will not be restricted in the future. Many of the significant Turpentine trees will be retained in the south-western corner of the site. The amended plans remove basement levels in this area which will ensure the continued health of these trees.

The amount of landscaping provided is consistent with the desired future character of the area, which seeks canopy trees to soften the buildings and contribute to the streetscape. The 53.12% deep soil zone will be able to accommodate sufficient canopy trees to the satisfaction of Council's Landscape Assessment Officer.

Amenity:

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

The development provides for one, two and three bedroom dwellings, the majority of which attain a rating of 4.5 NatHERS stars. The units are all provided with good visual privacy, having good side and rear setbacks.

A minimum floor to ceiling height of 2.7 metres has been proposed, consistent with Council's requirement. Furthermore, the units are all of generous proportions, satisfying DCP 55 requirements.

Item 1

The application provides adequate amounts of private open space to each of the units. Terraces and balconies generally exceed the requirements of DCP 55 and the Residential Flat Design Code.

The proposal provides acceptable levels of amenity to its future occupants and allows for reasonable levels of amenity to surrounding properties.

Safety and security:

'SEPP 65: Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising activity on the streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.'

The proposed development will have high levels of safety and security due to its location along the Newhaven Place frontage. The two pedestrian pathways are clearly visible from the streets, with unimpeded sightlines which would be provided with lighting.

Furthermore, all of the common open space areas will be overlooked by apartments, with no concealed or entrapment areas.

Social dimensions:

'SEPP 65: Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood, or, in the case of precincts undergoing transition, provide for the desired future community.'

A reasonable mix of apartments has been provided to allow housing choice. The apartment sizes range from 61m² to 136m² and would provide high quality living environments for those residents within the local area who wish to "downsize" to an apartment.

Aesthetics:

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

The external appearance and composition of building elements, textures, materials and colours satisfactorily reflects the use, internal design and structure of the development. The proposed building will be of brick construction, with a mix of timber, wood render and facebrick finish which is considered to complement materials of surrounding buildings in the

Item 1

area. The upper floor which is comprised mainly of wood and the lower level which has sandstone will fit in well with the canopy trees on the site and in the immediate area.

The proposed development relates well to the existing character of the area and is compatible with development anticipated under the zoning and SEPP 65 within the locality.

Residential Flat Design Code

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

Relating to the local context:

The proposal is sited over three (3) separate allotments and will require their consolidation. This amalgamation will result in a site of 3,434 m² which is capable of accommodating the proposed density of five storeys (**see Condition No. 66**).

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

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

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

Site analysis:

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

In terms of site configuration, the proposal will ensure adequate areas for private and common open space and deep soil landscape areas.

The orientation of the development ensures adequate solar access to habitable areas and private open space, both internally and to adjoining residential development and also provides an appropriate frontage to Newhaven Place.

The merits of the application with respect to stormwater management have been discussed above, whilst access and privacy are assessed below.

Building design:

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

Item 1

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

State Environmental Planning Policy No 55 - Remediation of Land

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

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

SREP 20 applies to land within the catchment of the Hawkesbury Nepean River. The general aim of the Plan is to ensure that development and future land uses within the catchment are considered in a regional context. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

The development has the potential to impact on water quality and volumes to the catchment.

The recommended consent will become operational, subject to the submission of stormwater management details in accordance with *Schedule A* of the recommendation, including the creation of a drainage easement to carry water to Council's stormwater system.

Subject to conditions, the development is unlikely to generate significant additional stormwater and would be consistent with the provisions of SREP 20.

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 2,400m ²	3,434m ²	YES
Deep landscaping (min): 50%	53.12%	YES
Street frontage (min): 30m	60m (Newhaven Place)	YES
Storeys and ceiling height (max) (not inclusive of top floor): 5 storeys and 16.4m	5 storeys and <16.4 metres	YES
Site coverage (max): 35%	34.9% (1,201 m ²)	YES
Top floor area (max): 60% of level below	60%	YES
Car parking spaces (min): 65 x resident, 10 x visitor	65 x resident, 10 x visitor	YES

Item 1

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Manageable housing (min): 10% (4 units)	4 apartments (10.5%) units are adaptable and 38 apartments (100%) are visitable by wheelchair users	YES
Lift access: required if greater than three storeys	Two (lifts) provided	YES
Zone Interface 3rd and 4th floors setback 9m from land not zoned 2(d3)	The development site is surrounded by land zoned 2(d3), except for a small portion west of No 9 Newhaven Place. The 3rd and 4th floors of 9 Newhaven Place are set back 7.4 metres from the western boundary	NO (SEPP 1)

Zone interface (clause - 25L)

The development fails to meet the development standard for zone interface as prescribed by LEP 194. An assessment of the objection made under SEPP 1 follows:

1. Relevant Environmental Planning Instrument

The Environmental Planning Instrument to which this SEPP 1 Objection relates is the Ku-ring-gai Local Planning Environmental Plan 194 (LEP 194). The subject land is zoned residential 2(d3) under the provisions of LEP 194 and the development to which this SEPP 1 objection relates comprises the construction of a new, five storey, residential flat building with basement parking, which is permissible in the residential 2(d3) zone.

2. Relevant development standard

The development standard to which the objection relates is Clause 25(L) – Zone Interface and states:

25(L) Zone interface

- (1) *The objective of this clause is to provide a transition in the scale of buildings between certain zones.*
- (2) *The third and fourth storey of any building on land within zone No 2 (d3) must be set back at least 9 metres from the boundary of the site of the building with land (other than a road) that is not within Zone No 2(d3).*

3. Variation to the standard

The proposal is for the erection of a residential flat building over a basement car park. Within the western boundary elevation, the proposal is set back 7.4 metres at the third and fourth levels

Item 1

(compared to the required 9.0 metres) to land zoned residential 2 (c) which is a public reserve, comprising mature trees.

4. Objective of the standard

The specific objectives of the zone interface control are prescribed at Clause 25(L)(1) of LEP 194 and states that:

(1) The objective of this clause is to provide a transition in the scale of buildings between certain zones.

5. Justification for the variation of the standard

The applicant advances the following justification:

The proposed setback is considered acceptable in this instance as the proposal is considered meritorious on the following grounds:

- **Orderly use of land** – *the variation does not contribute or create a disorderly use of the site.*
- **Amenity** – *the proposed variation is not responsible for any adverse amenity impacts to surrounding buildings in regard to overshadowing, loss of outlook or view and loss of visual or acoustic privacy. Therefore the amenity of the area is maintained and the proposal is regarded as being consistent with the zone objectives. The subject land zoned residential 29c0 is a public reserve connected to the reserve to the west*
- **Landscaping** – *the rear site boundary will be landscaped and planted with trees. It is considered that this will have the desired aim of providing a transition between the two zonings. The proposed landscape setback is considered to be an appropriate transition between the subject site and adjacent neighbour which is a public reserve (zoned residential 2(c) and consists primarily of established trees. Therefore it is considered the 7.4 metre will provide an embellished buffer when including the neighbouring properties.*

6. Consideration

6.1 *Is the control to be varied a development standard?*

The numerical building setback requirement prescribed under Clause 35(L) of LEP 194 is clearly a development standard as it is contained within an Environmental Planning Instrument.

6.2 *What is the underlying objective or purpose of the development standard?*

The underlying purpose of the standard is identified at section 4.

Item 1

6.3 *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(a)(i) and (ii) of the Act.

In this regard the objectives 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 proposed departure is consistent with the aim of SEPP No.1 in that the argument advanced by the applicant supports the case to allow flexibility in the application of the standard under Clause 25(L).

Further, compliance with the standard would restrict the construction of a development in a form consistent with the surrounding context and streetscape, and in circumstances where the proposal provides for the proper management of land and orderly economic use, the objects of the Act would not be attained should the SEPP 1 objection not be allowed.

The architectural form of the development, it's general height and landscaped setting creates a satisfactory relationship with the streetscape and adjoining residential properties resulting in visual amenity benefits to the public domain. The proposal presents a viable and appropriate use of the site.

6.4 *Why is compliance with the development standard unnecessary or unreasonable in the circumstances of the case?*

The non-compliant third and fourth levels of the building adjoin a boundary with an area of open space. There will be no adverse residential amenity impacts as a specific result of the non compliance. Varying the rear setback of the third and fourth levels of the building, this has enabled the retention of a number of tall canopy trees currently located along the eastern frontage of the site.

It is considered that the proposal would not have any unreasonable impact upon the amenity of the adjacent properties. In addition, assessment of the bulk and scale impact has found the proposal to be appropriately controlled in relation to that of the proposed built forms in the streetscape, and is therefore consistent with the objectives in this regard. The proposal would therefore meet with the objectives to respective amenity, as well as the underlying objectives of the development standard.

Item 1

6.5 Is the SEPP 1 Objection well founded?

The objection is well-founded. The development is consistent with the underlying objectives of the standard and the aims of SEPP 1. Strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.

Site area (cl.25E):

Clause 25E of LEP 194 stipulates that consent may be granted to development for the purpose of a residential flat building on land zoned Residential 2(d3) only if the land has an area of at least 1,200m².

The development site is 3,434m² in area and is appropriate for the development proposed.

Clause 25I contains heads of consideration, site requirements and development standards for multi-unit housing.

Clause 25I requires consideration of the following factors:

- *Desirability to provide a high ratio of deep soil landscape to site area;*
- *Impact of overshadowing/loss of privacy or outlook likely to be caused by the development;*
- *Separation between buildings/site boundaries/landscaped corridors; and*
- *Consideration of environmental factors, water conservation and sustainability.*

The following development standards apply and are addressed as follows:

Deep soil landscaping (cl.25I(2)):

Clause 25I(2) provides a minimum standard for deep soil landscaping. The proposed development is required to observe the following requirements:

- Deep soil planting with a minimum width of 2 metres on the site;
- Deep soil landscaping of minimum ratio of 50% for a site with an area of 1,800m² or greater.

The proposal provides a compliant 3,110 m² or 51.2% of deep soil landscaping on the site, with a minimum width in excess of 2 metres. This achieves appropriate amenity for future occupants, surrounding property owners and provides opportunities for screening within the streetscape.

Site frontages (cl.25I(3)):

Clause 25I(3) requires a minimum street frontage of 30 metres for a development site of 1,800m² – 2,400m² in area.

The site has a frontage of 110 metres (Stanley Street) and 42.5 metres (Link Road) and an area of 6,078m² and therefore complies.

Item 1

Number of storeys (cl.25I(5)):

Buildings proposed on sites measuring 1,800m² or more are not to exceed 5 storeys in height (with the 5th floor being no greater than 60% of the 4th floor).

The proposed development achieves a height of 5 storeys (with the 5th floor being no greater than 60% of the 4th floor) and complies. Further discussion of height is provided under *DCP 55*.

Site coverage (cl.25I(6)):

Residential flat buildings are not to occupy greater than 35% percentage of the site area.

As indicated in the *Compliance Table*, the proposal complies with this development standard.

Top floor (cl.25I(7)):

In Zone 2(d3), where the maximum number of 5 storeys permitted is attained, the floor area of the top storey of a residential flat building of 5 storeys is not to exceed 60% of the total floor area of the storey immediately below it.

The top (5th) storey proposed achieves a total area of 60% of the floor below and complies.

Storeys and ceiling height (cl.25I(8)):

Pursuant to Clause 25I(8) a development within the 2(d3) shall have a maximum of 5 storeys and a total perimeter ceiling height of 13.4 metres.

As indicated in the *Compliance Table*, the proposal achieves 5 storeys with a perimeter ceiling height not exceeding 13.4 metres and complies.

Car parking (cl.25J):

The proposal complies with the car parking development standard contained in Clause 25J.

Manageable housing (cl.25N(2)):

Refer also to *Compliance Table* (DCP 55) and discussion of 'Social Dimensions'. Manageable housing is provided in compliance with Council's requirements.

Lift access (cl.25N(3)):

A lift must be provided in all multi-unit housing developments of more than 3 habitable storeys in zone 2(d3). The proposed building comprises five habitable storeys and lift access is provided.

Item 1

Heritage /conservation areas (cl.25C(2)(e) and 61D - 61I):

Neither the subject site nor adjacent properties are listed on the *Register of the National Estate*, nor are they subject to any conservation instrument under the provisions of the NSW Heritage Act 1977. The properties are not listed as a heritage items nor located in a heritage conservation area identified under the provisions of the Ku-ring-gai Planning Scheme Ordinance.

A condition is recommended requiring that recording of the existing buildings at Nos. 9, 11 and 15 Newhaven Place, St Ives be undertaken prior to demolition (**refer Condition No. 37**).

Residential zone objectives

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

POLICY PROVISIONS**Development Control Plan No 55 - Railway/Pacific Highway Corridor & St Ives Centre**

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		
Development adjacent to a heritage item:	No closer than 75 metres to any heritage item	YES
Part 4.1 Landscape design:		
Deep soil landscaping (min) 150m ² per 1000m ² of site area = 515m ²	1,824m ² (53%)	YES
No. of tall trees required (min): 1 tree per 300m ² (12 trees)	12 trees retained	YES
Part 4.2 Density:		
Building footprint (max): 35% of total site area	35%	YES
Floor space ratio (max): 1.3:1	1.298:1 (4458m ²)	YES

Item 1

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 4.3 Setbacks:		
Newhaven Place setback (min): 10 - 12 metres (<40% of the zone occupied by building footprint)	10-12 metres setback (with less than 40% of the building in the 10m zone)	YES
The setback must extend both above and below ground and includes car parking, storage, detention tanks and the like	Part of the basement car park (64%) is set back 8.5 metres as opposed to 10 metres from Newhaven Place.	NO
Side boundary and rear setback (min): 6 metres	Minimum set back 6 metres, with the rear setback on average 8 metres	YES
% of total area of front setback occupied by private courtyards (max): 15%	<15%	YES
Part 4.4 Built form and articulation:		
Facade articulation:		
• Wall plane depth >600mm	All wall plane depths >600mm	YES
• Wall plane area <81m ²	< 81m ²	YES
Service Elements (such as lift overruns, service plants, vent stacks, etc) shall be integrated into the overall design of the roof	All elements integrated into the roof	YES
Built form:		
• Building width < 36m	55 m to Newhaven Place	NO
• Where the building is greater than 36m in length, that portion of the building in excess of 36m must be sufficiently recessed/articulated to present to the street as a separate building	The building has four identifiable components having lengths of 6m, 37m, 8m and 3m to Newhaven Place) and 16 m (to the southern boundary).	YES
• Balcony projection < 1.2m	Balconies have been integrated into the design of the development	YES

Item 1

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 4.5 Residential amenity		
Solar access:		
<ul style="list-style-type: none"> >70% of units receive 3+ hours direct sunlight in winter solstice 	38 apartments (100%) receive at least 3 hours of direct sunlight in mid-winter	YES
<ul style="list-style-type: none"> 3 hours sunlight to habitable rooms and outdoor living areas of adjoining houses in Residential 2(c1) and 2 (c2) zones 	Not adjoined by such zones, but at least 3 hours solar access maintained to adjoining developments	YES
<ul style="list-style-type: none"> >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice 	>50%	YES
<ul style="list-style-type: none"> <15% of the total units are single aspect with a western orientation 	<15% of the total units are single aspect with a western orientation	YES
Visual privacy:		
Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:		
<ul style="list-style-type: none"> Storeys 1 to 4 <ul style="list-style-type: none"> 12m b/w habitable rooms 9m b/w habitable and non-habitable rooms 6m b/w non-habitable rooms 	Within the site, the proposed development complies with this requirement.	YES
<ul style="list-style-type: none"> 5th Storey <ul style="list-style-type: none"> 18m b/w habitable rooms 13m b/w habitable and non-habitable rooms 9m b/w non-habitable rooms 	Within the site, the proposed development complies with this requirement.	YES

Item 1

COMPLIANCE TABLE		
Development control	Proposed	Complies
Internal amenity: <ul style="list-style-type: none"> Habitable rooms have a minimum floor to ceiling height of 2.7m Non-habitable rooms have a minimum floor to ceiling height of 2.4m 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms Single corridors: <ul style="list-style-type: none"> serve a maximum of 8 units >1.5m wide >1.8m wide at lift lobbies 	2.7m 2.7m All bedrooms >3.0m Maximum 5 units >2m >2m	YES YES YES YES YES YES
Outdoor living: <ul style="list-style-type: none"> Ground floor apartments have a terrace or private courtyard greater than 25m² in area Balcony sizes: <ul style="list-style-type: none"> 10m² – 1 bedroom unit 12m² – 2 bedroom unit 15m² – 3 bedroom unit NB. At least one space >10m² Primary outdoor space has a minimum dimension of 2.4m 	> 25m ² 10m ² 12m ² 15m ² 2.0m	YES YES YES YES NO
Part 4.7 Social dimensions:		
Visitable units (min): 70%	100% (38 units) are visitable	YES

Item 1

COMPLIANCE TABLE		
Development control	Proposed	Complies
Housing mix: To include a range of unit sizes and types to provide choice to the market and encourage social mix	1 one bedroom apartments, 10 two-bedroom apartments and 27 three- bedroom apartments	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency:		
<ul style="list-style-type: none"> • >65% of units are to have natural cross ventilation 	79% (30 units)	YES
<ul style="list-style-type: none"> • single aspect units are to have a maximum depth of 10m 	Less than 10 metres	YES
<ul style="list-style-type: none"> • 25% of kitchens are to have an external wall for natural ventilation and light 	26% (10 units)	YES
<ul style="list-style-type: none"> • >90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating 	4.5 star rating = 90%	YES
Part 5 Parking and vehicular access:		
Car parking spaces (min): 65 x resident, 10 x visitor	65 x resident, 10 x visitor	YES

Part 4.3 Setbacks:

The stepped building configuration provides for a variety of front, side and rear setbacks in order to achieve good articulation and interest to the streetscape.

The proposal fully complies with the 10m/12m setbacks to Newhaven Place above ground level.

A variation to the control that requires the basement area to be excluded from the front setback has been requested. The area of the basement car park projecting into the setback zone amounts to 64m². The width of the basement car park is a result of the required compliance with Australian Standard 2890 for aisle widths and car space dimensions. The placement of the basement car park has also been constrained by the desire to minimise the length of the entry/egress driveway and to maximise the available area of deep soil landscaped open space towards the rear portion of the site.

The setback dimension ensures ample space for deep soil landscaping which will screen the development from the Newhaven Place frontage. The basement structure does not project above ground level and will not be visible from the public domain. The total area of deep soil landscaping

Item 1

amounts to 51.2% of the site area and therefore complies with the requirements of LEP 194. Existing and new vegetation will screen the setback zones.

Part 4.4 Built form and articulation:

The width of a single building on any elevation facing the street should not exceed 36 metres. The proposed length of the building is 55 metres when viewed from Newhaven Place.

The building elements break the total development and satisfy the design controls of DCP 55.

The proposed development has been designed in accordance with the provisions and design principles embodied in SEPP 65, and according to Council's Urban Design Consultant, achieves a quality architectural outcome.

The perceived bulk and length of building has been reduced as follows:

- Applying architectural modulation to all elevations, thereby breaking the facade into different modules that serve to articulate the building;
- Utilising depth, shadow and different materials to achieve modulation and articulation in the composition of the facade rather than a superficial arrangement of applied elements;
- Selecting appropriate external materials and finishes to enhance the architectural form and character of the development and the quality of the streetscape; and
- Providing a densely vegetated garden (including canopy trees) to integrate the building into the landscape.

Part 4.5 Residential amenity – visual privacy:

DCP 55 requires a minimum separation between windows and balconies of a building and any neighbouring building either on the site or adjoining sites.

Within the site, the proposed development complies with this requirement.

The proposed building is located at least 12 metres from the adjoining medium density development to the north and west of the site. However, the subject site is extensively screened from these properties, which are also zoned residential 2(d3) and which will be developed for apartment buildings in the future.

Development Control Plan 31 – Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against SEPP 65 and DCP 55 and the proposal is satisfactory.

Item 1

Development Control Plan 40 – Construction and Demolition Waste Management

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

Development Control Plan No. 43 – Car Parking

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

Development Control Plan 47 – Water Management

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

Section 94 Plan

The development attracts a section 94 contribution of \$775, 683.01 which is required to be paid by **Condition No 71.**

LIKELY IMPACTS

The likely impacts of this development have been addressed within this assessment report under the relevant planning considerations and in the discussion of submissions received. The proposed development is consistent with Council's objective and development criteria for the Residential 2(d3) zone. The development will provide increased housing density without adversely impacting on the environment or unduly impacting the residential amenity of existing occupants of the area.

SUITABILITY OF THE SITE

The site is considered to be suitable for the development proposed.

ANY SUBMISSIONS

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

PUBLIC INTEREST

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

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for consideration.

Item 1

CONCLUSION

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and being satisfied that the objection under State Environmental Planning Policy No 1 – Development Standards is well founded, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved.

RECOMMENDATION

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

THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No 1 - Development Standards* to the Zone Interface standard (cl. 25L) of the Ku-ring-gai Planning Scheme Ordinance is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the SEPP 1 Objection has demonstrated that the underlying objective or purpose of the standard has been satisfied.

AND

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No 1 is well founded and also being of the opinion that the granting of consent to DA 1425/04 is consistent with the aims of the Policy, grant development consent to DA 1425/04 for the demolition of existing structures and construction of 5 residential flat buildings comprising 38 dwellings including, basement parking, and landscaping on land at 9, 11 and 15 Newhaven Place, St Ives for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

SCHEDULE A

1. The applicant is to obtain the approval of Council to amend the terms of the drainage easement over the downstream property to permit the passage of private property runoff. Council's approval is to be given prior to the operation of the consent. This will require the submission of the owner's written consent and an engineer's report which attests to the capacity of the system to accept such runoff. The relevant fee for the preparation of a report to Council is to be paid with the application. No guarantee is given of approval.

SCHEDULE B

GENERAL CONDITIONS

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

Item 1

Dwg No:	Rev.Description	Author	Dated	Lodged
DWG DA001	Cover Sheet	de la Vega Architects	July 2005	30-8-2005
DWG DA002	Plan - Site	de la Vega Architects	July 2005	30-8-2005
DWG DA003	Plan - Basement 2 -	de la Vega Architects	July 2005	30-8-2005
DWG DA 004	Plan – Basement 1	de la Vega Architects	July 2005	30-8-2005
DWG DA 005	Plan – Level 1	de la Vega Architects	July 2005	30-8-2005
DWG DA 006	Plan – level 2, 3 & 4	de la Vega Architects	July 2005	30-8-2005
DWG DA 007	Plan – level 5	de la Vega Architects	July 2005	30-8-2005
DWG DA008	Plan -Roof	de la Vega Architects	July 2005	30-8-2005
DWG DA009	Elevations 1	de la Vega Architects	July 2005	30-8-2005
DWG DA010	Elevations 2	de la Vega Architects	July 2005	30-8-2005
DWG DA011	Sections A-A 7 B-B	de la Vega Architects	July 2005	30-8-2005
DWG LSK-02	Landscape Plan	Context landscape	Oct 2005	26/10/05
DWG LSK-03	Planting Plan	Context Landscape	Oct 2005	26/10/05

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

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

6. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.

Item 1

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

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

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

Item 1

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

15. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
16. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the Occupation Certificate.
17. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

18. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.
19. The fence and footings shall be constructed entirely within the boundaries of the property.
20. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
21. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
22. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.

Item 1

23. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
24. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.
25. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
26. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
 - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
27. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
28. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
29. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.

Item 1

30. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
31. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
32. Fire hoses are to be maintained on site during the course of demolition.
33. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
34. A traffic management plan shall be submitted to and approved by the Principal Certifying Authority, where major demolitions are likely to impact on arterial or main roads.
35. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
36. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
37. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
38. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a. stating that unauthorised entry to the work site is prohibited, and
 - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
39. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
40. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
41. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.

Item 1

42. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
43. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.
44. Approval is given under this development consent for the following works to be undertaken on trees within the subject site.

No/Tree/Location

Tree Work

48/*Syncarpia glomulifera* (Turpentine)

Removal

Near the site's south eastern boundary and near its south western corner.

45. All disturbed areas, which are not to be built upon or otherwise developed, shall be rehabilitated to provide permanent protection from soil erosion within fourteen (14) days of final land shaping of such areas.
46. Any imported fill material shall be restricted to material from the local soil landscape on which the site is located or be derived from sandstone geology sites.
47. 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.
48. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Newhaven Place. The tree/s used shall be 25 litre container size specimen/s:

Tree Species

Angophora costata (Sydney Red Gum) and/or *Syncarpia glomulifera* (Turpentine)

49. 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.
50. Stormwater runoff from all hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped and connected to the Council drainage system within the site. Drainage line connections to the system shall conform and comply with the relevant detail within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe") which is provided in Councils Water Management DCP 47 (available on the Council website).

Item 1

51. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The (minimum) total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy all relevant BASIX commitments and the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).
52. In addition to the mandatory rainwater retention and re-use system provided, an on-site stormwater detention system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
53. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanized grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.
54. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.
55. It is the Applicant's and contractor's **full responsibility** to ascertain the exact location of the Council drainage pipe traversing the site and take measures to protect it. All proposed structures are to be sited fully clear of any Council drainage pipes, drainage easements, watercourses and trunk overland flow paths on the site. Trunk or dedicated flow paths shall not be impeded or diverted by fill or structures unless otherwise approved. In the event of a pipeline being uncovered during construction, all work is to cease and the Principal Certifying Authority and Council must be contacted immediately for advice. Any damage caused to the Council pipe shall be immediately repaired in full and at no cost to Council.
56. No part of the building (including overhangs and footings) shall encroach over any easement and no loadings shall be imposed to the utilities within any easement.
57. This development consent does not set aside or affect in any way the exercise of any rights-at-law which may be conferred upon any party or parties by the existence and/or terms of the grant of any easements or rights-of-carriageway on or over the subject property. It is the applicant's full responsibility to ensure that any rights-at-law are upheld. Council accepts no responsibility whatsoever, either now or in the future, for any claim for any matter or thing arising from its approval to this application involving any encroachment or other influence upon any easement or right-of-carriageway. The applicant's attention is further directed to the

Item 1

rights of persons benefited by any easement or right-of-carriageway concerning the entry and breaking up of a structure approved by this consent. In the event that such a structure causes damage, blockage or other thing requiring maintenance to infrastructure within the easement or right-of-carriageway, or access is required to carry out maintenance, Council accepts no responsibility in this regard now or in the future.

58. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.
59. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
60. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
61. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
62. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and

Item 1

after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

63. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
64. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au 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.
65. In order to allow **unrestricted access at all times** for Ku-ring-gai Council waste collection vehicles into the basement garbage collection area - no doors, grilles, gates or other devices are to be provided in the access driveways to the basement carpark preventing this service.

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

66. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing three Torrens lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to the issue of the Construction Certificate. The condition is imposed to ensure a continuous structure will not be placed across separate titles.
67. 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.

68. 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

Item 1

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).

69. 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.
70. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
71. 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 THIRTY-EIGHT (38) ADDITIONAL DWELLINGS IS CURRENTLY \$775,683.91. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

Item 1

1. Community Facilities (If Seniors Living \$412.07)	\$1,117.76
2. Park Acquisition and Embellishment Works - Killara	\$6,384.75
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

72. To preserve the *Syncarpia glomulifera* (Turpentine) trees located close to the site's Newhaven Place grading is not permitted along the eastern side of the drainage line. The storm water pits (SWP) shall be set flush with the existing ground levels. Required grading may be effected between the building and the pits. Details of the amendment shall be submitted to the Principal Certifying Authority and approved prior to release of the Construction Certificate.
73. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

74. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works.

The planting plan by Context, Drawing no. LSK-03, Rev. C dated 19/10/05 is not approved and will require the following amendments;

- To prevent overlooking from the proposed elevated deck areas into the adjoining property, additional screen planting shall be provided along the western boundary.

Item 1

- The plan shall indicate all stormwater drainage pits.

75. The property shall support a minimum number of 12 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The trees to be planted are to be species consistent with Sydney Turpentine Ironbark Forest (STIF). The plan shall be submitted to the Principal Certifying Authority and approved prior to release of the Construction Certificate.

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

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

77. A CASH BOND/BANK GUARANTEE of \$10,000 00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan/s or other landscape conditions.

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

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

78. A cash bond/bank guarantee of \$26,000.00 shall be lodged with Council prior to release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

No/Tree/Location

6/*Syncarpia glomulifera* (Turpentine)/Adjacent to and towards the northern end of the site's Newhaven Place boundary.

Item 1

7/*Syncarpia glomulifera* (Turpentine)/Close to the northern end of the residential building's eastern side.

11/*Syncarpia glomulifera* (Turpentine)/Close to the centre of the site's Newhaven Place boundary.

12/*Syncarpia glomulifera* (Turpentine)/Close to the centre of the site's Newhaven Place boundary.

13/*Syncarpia glomulifera* (Turpentine)/Adjacent to the centre of the site's Newhaven Place boundary.

14/*Syncarpia glomulifera* (Turpentine)/Close to the centre of the site's Newhaven Place boundary.

41/*Syncarpia glomulifera* (Turpentine)/Close to the site's south-eastern boundary and near its south western corner.

42/*Syncarpia glomulifera* (Turpentine)/Close to the site's south-eastern boundary and near its south western corner.

43/*Syncarpia glomulifera* (Turpentine)/Close to the site's south-eastern boundary and near its south western corner.

46/*Syncarpia glomulifera* (Turpentine)/Near the site's south-eastern boundary and near its south western corner .

47/*Syncarpia glomulifera* (Turpentine)/Near the site's south-eastern boundary and near its south western corner.

49/*Syncarpia glomulifera* (Turpentine)/Near the site's south-eastern boundary and near its south western corner.

50/*Syncarpia glomulifera* (Turpentine)/Near the site's south-eastern boundary and near its south western corner.

79. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
80. Prior to issue of the Construction Certificate, driveway and associated footpath levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are

Item 1

only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

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

81. Prior to the issue of the Construction Certificate, a longitudinal driveway section is to be prepared by a qualified civil/traffic engineer and be submitted for approval by the Principal Certifying Authority. The profile is to be at 1:100 scale along the *inside trafficked edge* of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The traffic engineer shall provide specific written certification on the plans that:

- Vehicular access can be obtained using grades of 20% (1 in 5) maximum (to allow the laden garbage collection vehicle to exit the site), and
- All changes in grade (transitions) comply with clause 2.5.3 of Australian Standard 2890.1 (2004) –“Off-street car parking” to prevent the scraping of the underside of vehicles, particularly along the inside radius for curved driveways.

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

82. Prior to issue of the Construction Certificate the Applicant must submit, for approval by the Principal Certifying Authority, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements clearly dimensioned. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- a) All parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply in full with Australian Standard 2890.1 – 2004 “Off-street car parking”.

Item 1

- b) A clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement.
- c) No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area.
- d) The traffic control signal between the basement levels is shown on the plans and will provide an effective method of regulating traffic flow.

The vehicle access and accommodation arrangements are to be constructed in accordance with the certified plans.

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

- a) Construct a 1.2 metre wide concrete footpath for the full site frontage. Where the footpath is to be within the canopy of significant trees, asphaltic concrete may be used.

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.

Item 1

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.

84. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document "*Managing Urban Stormwater – Soils and Construction, Volume 1*" (2004). A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47.
85. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:
 - Exact location and reduced level of discharge point to the public drainage system.
 - Full layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
 - Location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems. Where proprietary products are to be used, manufacturer specifications or equivalent shall be provided.
 - Retention storage should overflow into detention storage where practicable.
 - If fences are proposed over the interallotment drainage easement, then gaps are to be provided for overland flow.
 - Overland flow originating in Newhaven Place should be maintained along Council's easement on the south eastern boundary and not collected in the property drainage system.
 - Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments.
 - Details of the required **on-site detention** tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
 - The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and*

Item 1

Drainage Code and the BCA. The plans may be generally based on the stormwater drainage plans prepared by Warren Smith & Partners for Development Application approval, which are to be advanced as necessary for construction issue purposes.

86. Prior to issue of the Construction Certificate the Applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.
87. Prior to issue of the Construction Certificate the applicant must make contact with all relevant utility providers whose services will be impacted upon by the approved development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifying Authority, must be obtained. All utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage must be provided by the developer in accordance with the specifications of those supply authorities.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

88. 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.
89. 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. Reports by the Arborist shall be submitted to the Principal Certifying Authority following each specified phase of work. Documentary evidence of compliance with this condition shall be submitted by the Principal Certifying Authority to Council prior to issue of the Occupation Certificate.

No/Tree/Location

6/*Syncarpia glomulifera* (Turpentine)/Adjacent to and towards the northern end of the Newhaven Place boundary

7/*Syncarpia glomulifera* (Turpentine)/Close to the northern end of the residential building's eastern side.

11/*Syncarpia glomulifera* (Turpentine)/Close to the centre of the site's Newhaven Place boundary.

12/*Syncarpia glomulifera* (Turpentine)/Close to the centre of the site's Newhaven Place boundary.

Phase of Work

Demolition, building excavation sewer, drainage and landscape phases.

Demolition, building excavation, sewer, drainage and landscape phases.

Demolition, building excavation, sewer, drainage and landscape phases.

Demolition, building excavation,

Item 1

No/Tree/Location

13/*Syncarpia glomulifera* (Turpentine)/Adjacent to the centre of the site's Newhaven Place boundary.
14/*Syncarpia glomulifera* (Turpentine)/Close to the centre of the site's Newhaven Place boundary.
41/*Syncarpia glomulifera* (Turpentine)/Close to the site's south-eastern boundary and near its south western corner.
42/*Syncarpia glomulifera* (Turpentine)/Close to the site's south-eastern boundary and near its south-western corner
43/*Syncarpia glomulifera* (Turpentine)/Close to the site's south-eastern boundary and near its south western corner.
44/*Syncarpia glomulifera* (Turpentine)/Close to the site's south-eastern boundary and near its south-western corner
45/*Syncarpia glomulifera* (Turpentine)/Close to the site's south-eastern boundary and near its south-western corner.
46/*Syncarpia glomulifera* (Turpentine)/Near the site's south eastern boundary and near its south-western corner.
47/*Syncarpia glomulifera* (Turpentine)/Near the site's south-eastern boundary and near its south-western corner.
49/*Syncarpia glomulifera* (Turpentine)/Near the site's south-eastern boundary and near its south-western corner.
50/*Syncarpia glomulifera* (Turpentine)/Near the site's south-eastern boundary and near its south-western corner.

Phase of Work

Demolition, building excavation, sewer, drainage and landscape phases.
Demolition, building excavation,
Demolition, building excavation, sewer, drainage and landscape phases.
Demolition, building excavation, sewer, drainage and landscape phases.
Demolition, building excavation, sewer, drainage and landscape phases.
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Demolition, building excavation, sewer, drainage and landscape phases.
Demolition, building excavation, sewer, drainage and landscape phases.
Demolition, building excavation, sewer, drainage and landscape phases.
Demolition, building excavation, sewer, drainage and landscape phases.

90. 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

6/*Syncarpia glomulifera* (Turpentine)/Adjacent to and towards the northern end of the site's Newhaven Place boundary.

Radius in Metres

4 metres

7/*Syncarpia glomulifera* (Turpentine)/Close to the northern end of the residential building's eastern side.

4 metres

11/*Syncarpia glomulifera* (Turpentine)/Close to the

5 metres

Item 1

centre of the site's Newhaven Place boundary.

12/*Syncarpia glomulifera* (Turpentine)/Close to the centre of the site's Newhaven Place boundary. 4 metres

13/*Syncarpia glomulifera* (Turpentine)/Adjacent to the centre of the site's Newhaven Place boundary. 4 metres

14/*Syncarpia glomulifera* (Turpentine)/Close to the centre of the site's Newhaven Place boundary. 4 metres

41/*Syncarpia glomulifera* (Turpentine)/Close to the site's south-eastern boundary and near its south-western corner. 5 metres

43/*Syncarpia glomulifera* (Turpentine)/Close to the site's South-eastern boundary and near its south-western corner. 4 metres

49/*Syncarpia glomulifera* (Turpentine)/Near the site's south-eastern boundary and near its south-western corner. 5 metres

91. 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 DECK 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 in Metres
46/ <i>Syncarpia glomulifera</i> (Turpentine)/Near the site's South-eastern boundary and near its south-western corner.	4 metres

47/ <i>Syncarpia glomulifera</i> (Turpentine)/Near the site's south-eastern boundary and near its south-western corner.	4 metres
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92. 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.

93. Tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign to advise as minimum details, the following:

- a. Tree Protection Zone
- b. This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.
- c. If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works

Item 1

- d. Name, address, and telephone number of the developer/principal certifying authority.
94. The area of the Tree Protection Zone is to be mulched to a depth of 100mm with organic material being 75% leaf litter and 25% wood, and this being composted material preferably from the same genus and species of tree as to that where the mulch is to be applied, ie species specific mulch. The depth of mulch and type as indicated, to be maintained for the duration of the project.
95. No services either temporary or permanent are to be located within the Tree protection Zone. If services are to be located within the Tree Protection Zone, special details will need to be provided by a qualified consulting Arborist for the protection of the tree regarding the location of the service/s.
96. In the event of prolonged dry periods, or where a tree has been transplanted, or where excavation nearby, especially up slope, leads to drying out of soil profiles closest to the tree/s, the tree/s is to be deep root watered thoroughly at least twice a week. The need for such watering is determined readily by observing the dryness of the soil surface within the dripline of the tree by scraping back some mulch. Mulch to be reinstated afterwards. In the event of disrupted ground or surface water flows to the tree due to excavation, filling or construction, an irrigation system may be required to be installed, consideration must be given to volume, frequency, and drainage of water delivered, and this should be in consultation with a qualified consulting Arborist.
97. If a tree is growing down slope from an excavation, a silt fence located along the contours of the site in the area immediately above the Tree Protection Zone fencing may be need to be installed and regularly maintained to prevent burial and asphyxiation of the roots of the tree. To allow for the maintenance of both fences, the silt fence must be constructed separately to the tree protection fence and the two fences must be constructed independently of each other and stand alone. To reduce competition the Tree Protection Zone is to be kept free of weeds for the duration of the development works.
98. Upon completion of the installation of the required tree protection measures you are required to arrange an inspection of the site by the Principal Certifying Authority to verify that tree protection measures comply with all relevant conditions. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
99. Prior to the commencement of any works on site and prior to issue of the Construction Certificate, qualified practitioners must undertake a closed circuit television (CCTV) inspection and then report on the existing condition of Council drainage pipeline traversing the subject property. The report must be provided to Council, attention Development Engineer, prior to issue of the Construction Certificate. The report is to include a copy of the video footage of the pipeline.
100. Prior to the commencement of bulk excavation, a geotechnical investigation comprising at least three boreholes drilled to 1 metre below basement level is to be carried out. The report

Item 1

of this investigation is to be submitted to the Principal Certifying Authority, or Council if no PCA has been appointed. Recommendations for excavation methods and support, vibration monitoring, frequency of geotechnical inspections and groundwater management are to be included in the report.

- 101 The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report submitted in accordance with another condition of this consent. Over the course of the works a qualified Geotechnical/hydrogeological Engineer must complete the following:
 - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Further monitoring and inspection as recommended in the above report(s) and as determined necessary,
 - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.
- 102 A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure. Approval must be obtained from all affected property owners, including Ku-ring-gai Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.
- 103 Prior to the commencement of **demolition works** on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of the residences at 7 and 17 Newhaven Place, if these residences have not been demolished under a separate approval . The report must be completed by a consulting structural/geotechnical engineer. A written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.
- 104 Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:
 1. **A plan view of the entire site and frontage roadways indicating:**
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
 - Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
 - The locations of proposed Work Zones in the frontage roadways,
 - Location of any proposed crane standing areas

Item 1

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

2. Traffic Control Plan(s) for the site

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

3. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided.

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

In addition, the plan must address:

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

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

Item 1

acknowledgment from Council engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. A fee is payable for the assessment of the plan by Ku-ring-gai Council.

105. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.
106. Prior to the commencement of any works on site the applicant shall submit to Ku-ring-gai Council a full dilapidation report on the visible and structural condition (**including a photographic record**) of the following public infrastructure:
 - a). Full road pavement width, including kerb and gutter, of Newhaven Place over the site frontage.
 - b). All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and in written format) *existing* damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

The developer may be held liable for any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

107. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at

Item 1

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.

108. The following noxious and/or weed 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 release of the Occupation Certificate:

Plant Species

Anredera cordifolia (Madeira Vine)
Cytisus sp. (Broom)
Hedera helix (English Ivy)
Impatiens balsamina (Impatiens)
Ligustrum lucidum (Large-leaved Privet)
Lonicera japonica (Honeysuckle)
Nephrolepis cordifolia (Fishbone fern)
Ochna serrulata (Ochna)
Senna pendula (Cassia)
Tradescantia albiflora (Wandering Jew)
Wisteria sp. (Wisteria Vine)

109. The LANDSCAPE WORKS including REPLENISHMENT CANOPY TREE and SCREEN PLANTING shall be installed in accordance with the approved plans and conditions of consent, be completed prior to issue of the Occupation Certificate and maintained in a healthy and vigorous condition at all times.
110. The Principal Certifying Authority shall ensure that the LANDSCAPE WORKS including REPLENISHMENT CANOPY TREE and SCREEN PLANTING have been installed correctly, faithful to the approved landscape plan/s and conditions of consent prior to issue of Occupation Certificate.
111. Prior to the release of the occupation certificate, a detailed survey is to be undertaken of the site's completed works to ensure that the development complies with the required 50% deep soil landscape area, as per LEP194 definitions. Documentary evidence is to be submitted to the principal certifying authority for approval prior to the issue of the occupation certificate.
112. The applicant is to submit documentary evidence that the terms of the drainage easement through the downstream property have been amended to permit the passage of runoff from the subject property. Title and instrument details are to be submitted to and approved by the Principal Certifying Authority prior to issue of the Occupation Certificate.
113. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:
- New concrete driveway crossing in accordance with levels and specifications issued by Council.

Item 1

- New footpath for the full site frontage.
- Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
- Full repair and resealing of any road surface damaged during construction.
- Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

114. Prior to issue of the Occupation Certificate the following must be provided to Council (attention Development Engineer):

- A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
- A copy of any works-as-executed drawings required under this consent
- The Engineer's certification of the as-built system.

This condition is required so Council may maintain its database of as-constructed on-site stormwater detention systems, and applies particularly where the appointed Principal Certifying Authority (PCA) is not Ku-ring-gai Council.

115. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.

116. Prior to issue of an Occupation Certificate the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:

- That the as-constructed carpark complies with the approved Construction Certificate plans,
- That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 "Off-Street car parking" in terms of minimum parking space dimensions provided,
- That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
- That no doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.

Item 1

- That the traffic control signal between the basement levels has been installed and is working effectively.
 - That the vehicular headroom requirements of:
 - Australian Standard 2890.1 - “Off-street car parking”,
 - 2.44m height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement carpark.
117. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:
- That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
 - That the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.
 - That retained water is connected and available for uses including toilet flushing, clothes washing and irrigation.
 - That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
 - That all grates potentially accessible by children are secured.
 - That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and
 - All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.
- The following certification sheets **must be accurately completed and attached** to the certification:
- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47
 - On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.
118. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:
- As built (reduced) surface and invert levels for all drainage pits.
 - Gradients of drainage lines, materials and dimensions.

Item 1

- As built (reduced) level(s) at the approved point of discharge to the public drainage system.
- As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.
- The achieved storage volumes of the installed retention and detention storages and derivative calculations.
- As built locations of all access pits and grates in the detention and retention system(s), including dimensions.
- The size of the orifice or control fitted to any on-site detention system.
- Dimensions of the discharge control pit and access grates.
- The maximum depth of storage possible over the outlet control.
- Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

The WAE plan(s) must show the as-built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked **in red** on a copy of the Principal Certifying Authority stamped construction certificate stormwater plans.

119. Prior to issue of the Occupation Certificate a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.
120. Prior to issue of the Occupation Certificate a suitably qualified and consulting geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out :
 - According the relevant Australian Standards and guidelines, and
 - According to any approved Geotechnical report undertaken for the development, and
 - In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.
121. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the report submitted before commencement of works, and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
122. 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 Certifying Authority (PCA) certification from a registered surveyor that no structures are located over the existing drainage pipeline and/or easement traversing the subject property. A copy of the certification must also be provided to Council, attention Development Engineer, prior to issue of any Final Certificate.

Item 1

123. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), a closed circuit television (CCTV) inspection and report on the Council drainage pipeline traversing the subject property is to be undertaken by appropriate contractors and provided to Council, attention Development Engineer. The report is to include a copy of the footage of the inside of the pipeline. Any damage that has occurred to the section of the pipeline since the commencement of construction on the site must be repaired in full to the satisfaction of Council's Development Engineer at no cost to Council.
124. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structures originally assessed at 7 and 17 Newhaven Place.

The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate. If either of the residences has been demolished in the meantime under a separate approval, then no follow-up report is required.

BUILDING CONDITIONS

125. 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.
126. 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.
127. 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.

Item 1

128. 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.

129. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:

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

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

130. 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.

Item 1

Selwyn Segall
Executive Assessment Officer

Scott Cox
Team Leader
Development Assessment - Central

Matthew Prendergast
Manager
Development Assessment Services

Michael Miocic
Director
Development & Regulation

Attachments:

- Locality sketch - 548773**
- Zoning extract - 548775**
- Site Plan - 548776**
- Architectural Plans - 548777 and 548778**
- Landscape Plan - 548779**
- Shadow Diagrams - 548780**

LOCATION SKETCH

9, 11 & 15 Newhaven Place, ST IVES NSW
DEVELOPMENT APPLICATION No 1425/04



Scale : 1:3000

10-10-2005



AGREEMENT



OBJECTION



SUBJECT LAND



PETITION



SUBMISSION



CIRCULATED AREA



Zoning Extract

9, 11 & 15 NEWHAVEN PLACE, ST IVES



10-10-2005

Scale = 1:3000

3(a) BUSINESS 3(a)-(A2)	2(d3) RESIDENTIAL 2(d3)
 EXISTING COUNTY ROAD	2(e) RESIDENTIAL 2(e)
 RECREATION EXISTING 6(a)	2(h) RESIDENTIAL 2(h)
2(c) RESIDENTIAL 2(c)	SCH SPECIAL USES 5(a) (Schools etc)
2(c2) RESIDENTIAL 2(c2)	
2(d) RESIDENTIAL 2(d)	



PROPOSED RESIDENTIAL DEVELOPMENT - NEWHAVEN PLACE - ST IVES

de la vega architects

DE LA VEGA ARCHITECTS PTY LTD NUMBER 1 - 335 EDGECLIFF ROAD - WOOLLAHRA - NSW 2025 PH: 61 02 9363 3455 FAX: 61 02 9363 9371



PROPOSED RESIDENTIAL DEVELOPMENT NEWHAVEN PLACE - ST IVES

SITE PLAN

0 1 2 5 10 20M

DAVIDSON PARK
STATE
RECREATION AREA

KU-RING-GAI
CHASE NATIONAL

LINK ROAD

NEWHAVEN

PLACE

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

LOT 1

3

5

7

LOT 9, 11 & 15
PLAN - POOP

PYMBLE
GOLF COURSE

10

8

6

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

23

21

19

17

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

EXISTING
RESIDENTIAL
BUILDING

42

40

38

36

STANLEY STREET

DRAWING NO.
DA-002

DRAWING TITLE:
PLAN - SITE

SCALE:
1/500 (A1)

REV: -
A

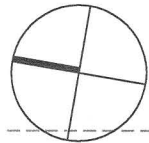
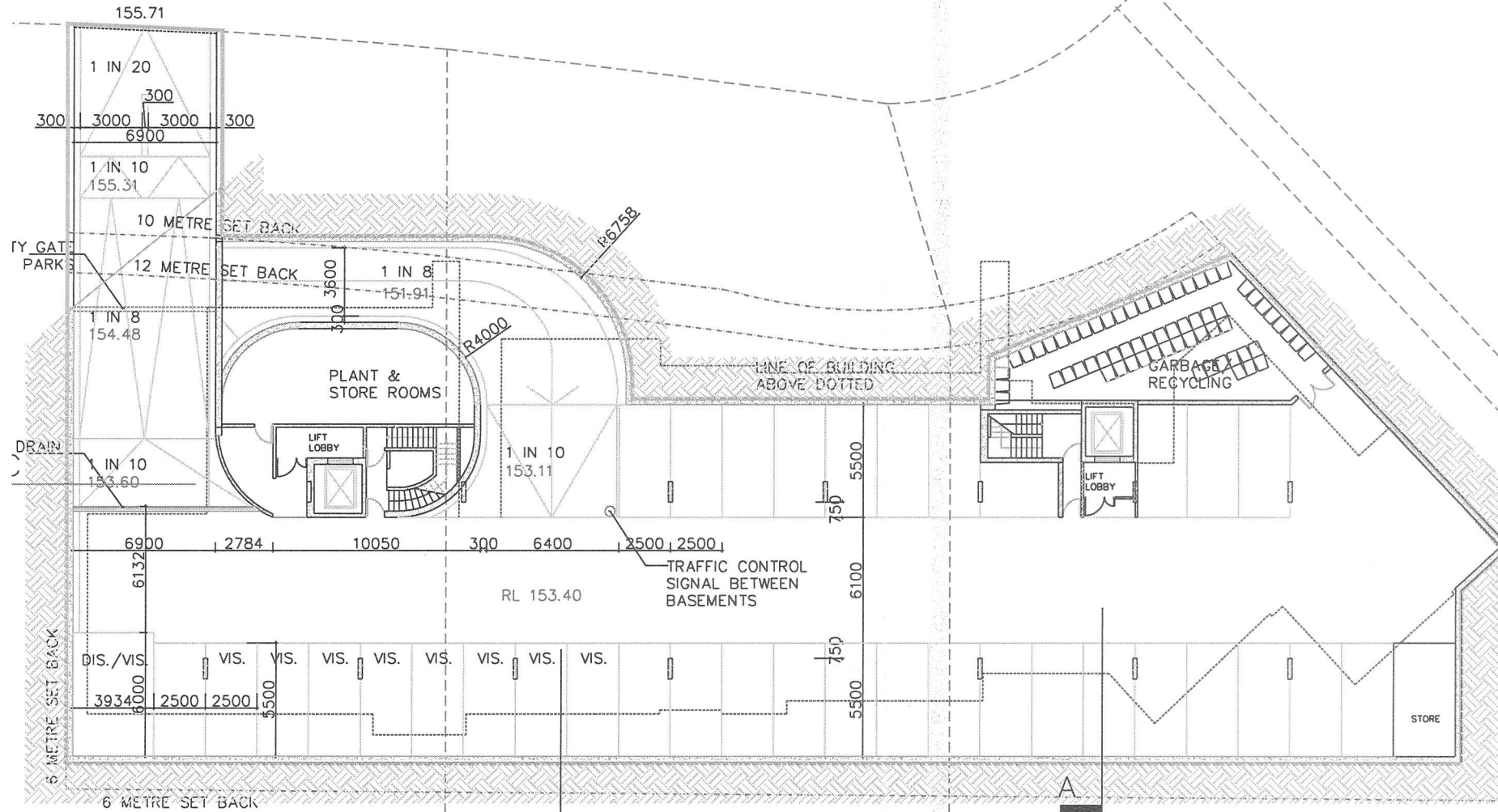
DATE:
JUL2005

LOT 9,11 & 15 - NEWHAVEN PLACE

PROPOSED RESIDENTIAL DEVELOPMENT - NEWHAVEN PLACE - ST IVES

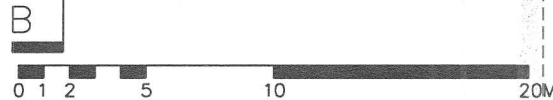
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LOT 9, 11 & 15 PLAN - BASEMENT 01

CAR SPACES = 35
(INCL. : 1 DISABLED PARKING SPACE & 10 VISITOR SPACES)



NO. OF CARPARKS:
1 X (1 X 1BED + 12 X 2BED APT) = 1X13 = 13
2 X (25 X 3BED APT) = 2X25 = 50
VISITORS = 1 PER 4 APTS = 38/4 = 10
TOTAL: 13+50+10 = 73 CARS

B1 + B2 = 35 + 38 = 73
TOTAL NO. OF DISABLED PARKING SPACES = 2

LOT 9,11 & 15 - NEWHAVEN PLACE

DATE:
JUL2005

REV -
A

SCALE:
1/100 (A1)

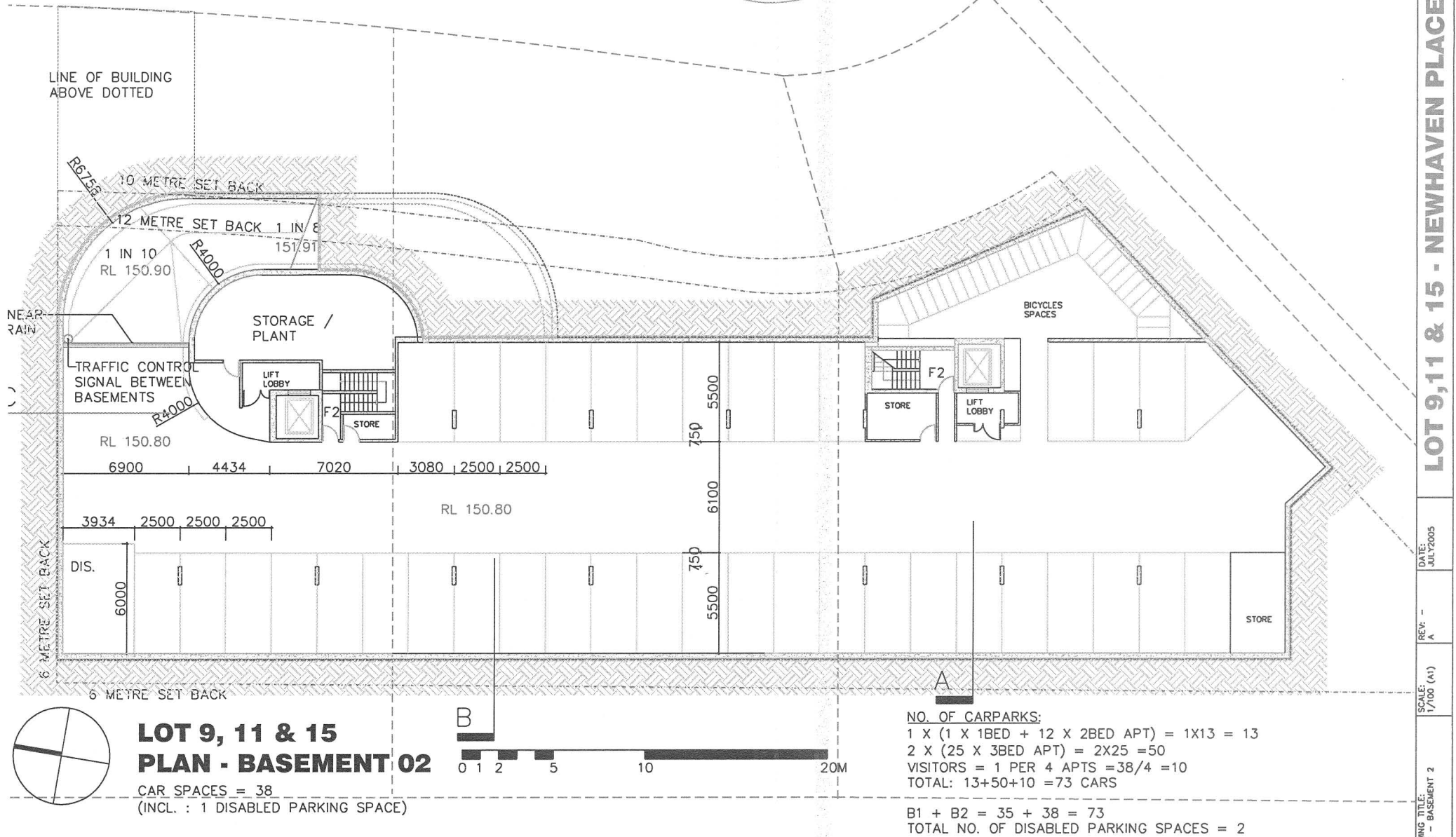
DRAWING TITLE:
PLAN - BASEMENT 1

DRAWING NO.
DA-004

PROPOSED RESIDENTIAL DEVELOPMENT - NEWHAVEN PLACE - ST IVES

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LOT 9,11 & 15 - NEWHAVEN PLACE

DATE: JUL 2005

REV: A

SCALE: 1/100 (A1)

DRAWING TITLE: PLAN - BASEMENT 2

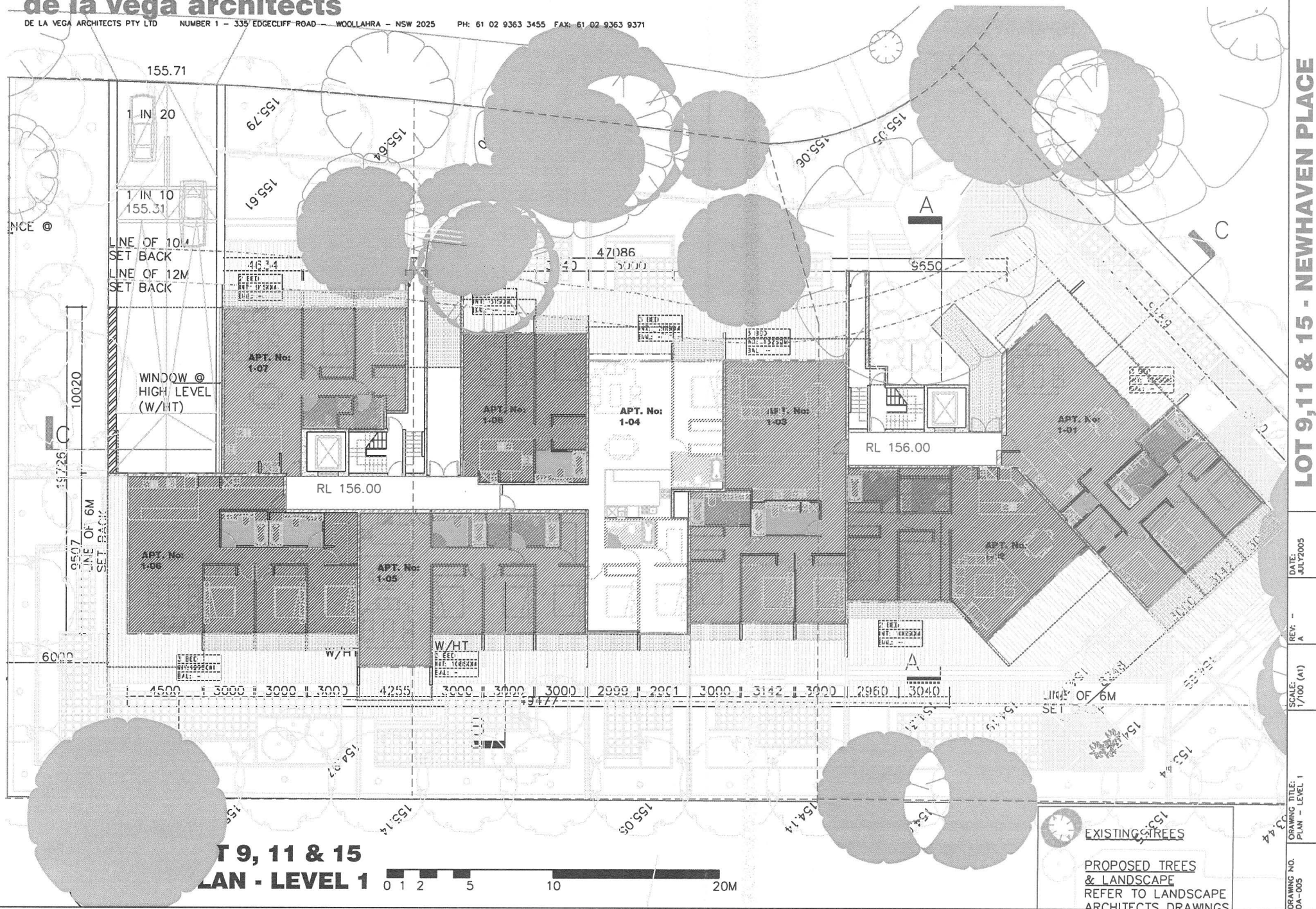
DRAWING NO. DA-003

DE LA VEGA ARCHITECTS PTY LTD NUMBER 1 - 335 EDGECLIFF ROAD - WOOLLAHRA - NSW 2025 PH: 61 02 9363 3455 FAX: 61 02 9363 9371

DE LA VEGA ARCHITECTS PTY LTD

NUMBER 1 - 335 EDGECLIFF ROAD - WOOLLAHRA - NSW 2025

PH: 61 02 9363 3455 FAX: 61 02 9363 9371



LOT 9,11 & 15 - NEWHAVEN PLACE

DATE: JULY 2005

REV: A

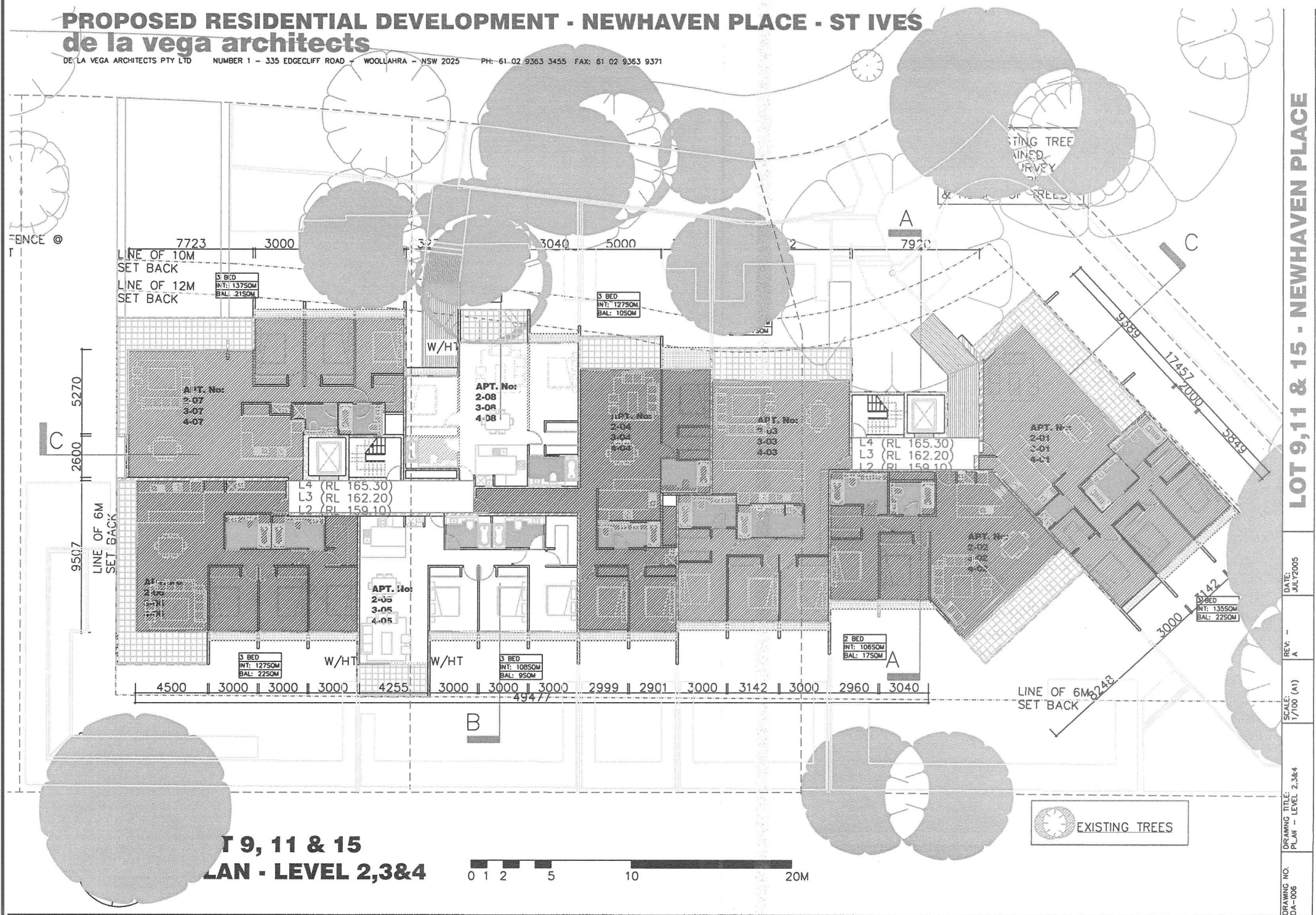
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DRAWING TITLE:
PLAN - LEVEL 1

DRAWING NO.
DA-005

DE LA VEGA ARCHITECTS PTY LTD NUMBER 1 - 335 EDGECLIFF ROAD - WOOLLAHRA - NSW 2025 PH: 61 02 9363 3455 FAX: 61 02 9363 9371

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LOT 9,11 & 15 - NEWHAVEN PLACE

DATE: JULY 2005

REV: -
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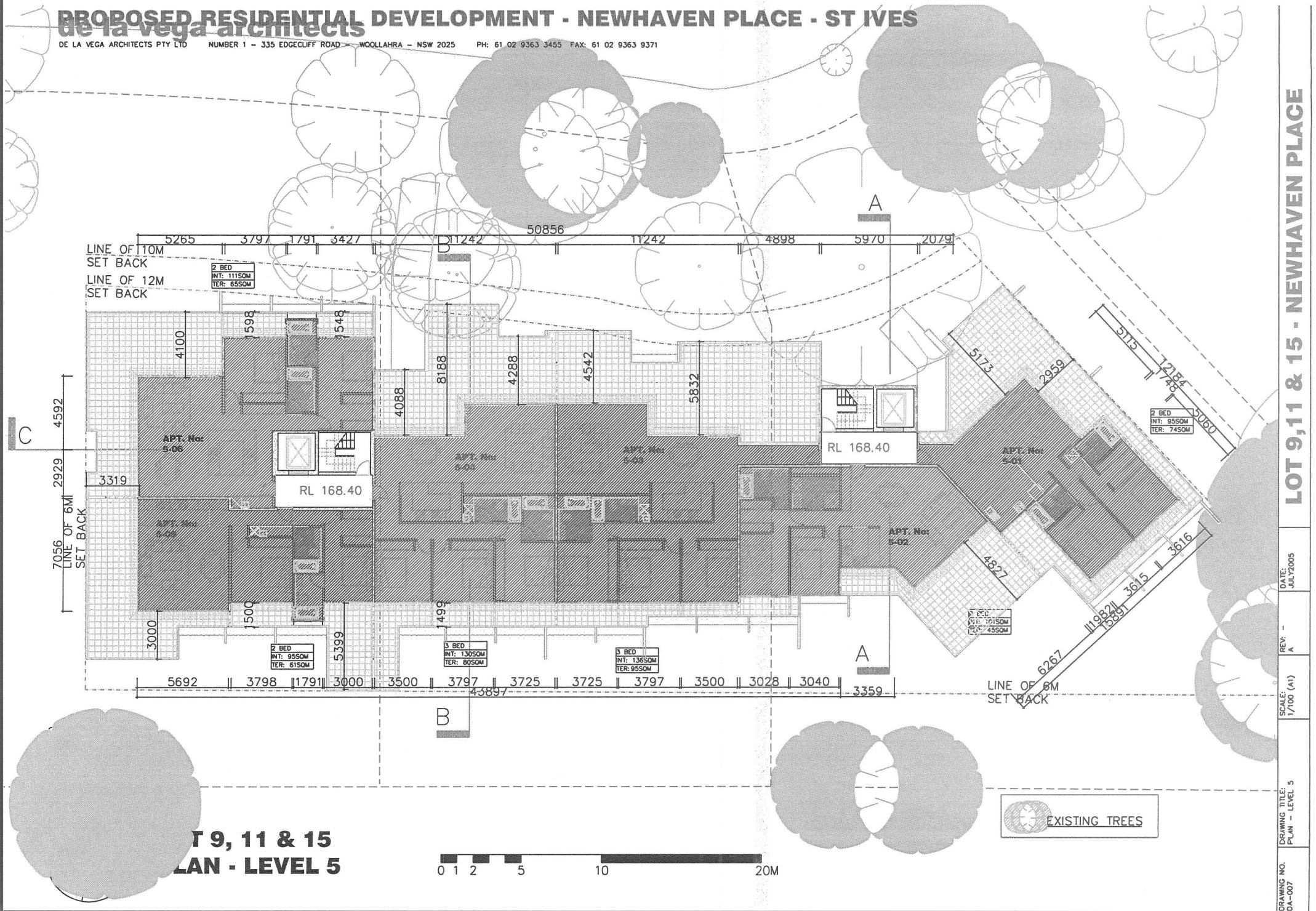
SCALE:
1/100 (A1)

DRAWING TITLE:
PLAN - LEVEL 2,3&4

DRAWING NO.
DA-006

PROPOSED RESIDENTIAL DEVELOPMENT - NEWHAVEN PLACE - ST IVES

DE LA VEGA ARCHITECTS PTY LTD NUMBER 1 - 335 EDGECLIFF ROAD WOOLLAHRA - NSW 2025 PH: 61 02 9363 3455 FAX: 61 02 9363 9371



LOT 9,11 & 15 - NEWHAVEN PLACE

DRAWING NO. DA-007
DRAWING TITLE: PLAN - LEVEL 5
SCALE: 1/100 (A1)
REV: A
DATE: JULY 2005

PROPOSED RESIDENTIAL DEVELOPMENT - NEWHAVEN PLACE - ST IVES

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LOT 9,11 & 15 - NEWHAVEN PLACE

DATE:
JULY 2005

REV: -
A

SCALE:
1/100 (A1)

DRAWING TITLE:
PLAN - ROOF

DRAWING NO.
DA-008

LINE OF 10M
SET BACK
LINE OF 12M
SET BACK

LINE OF 6M
SET BACK

LINE OF 6M
SET BACK

GARDEN

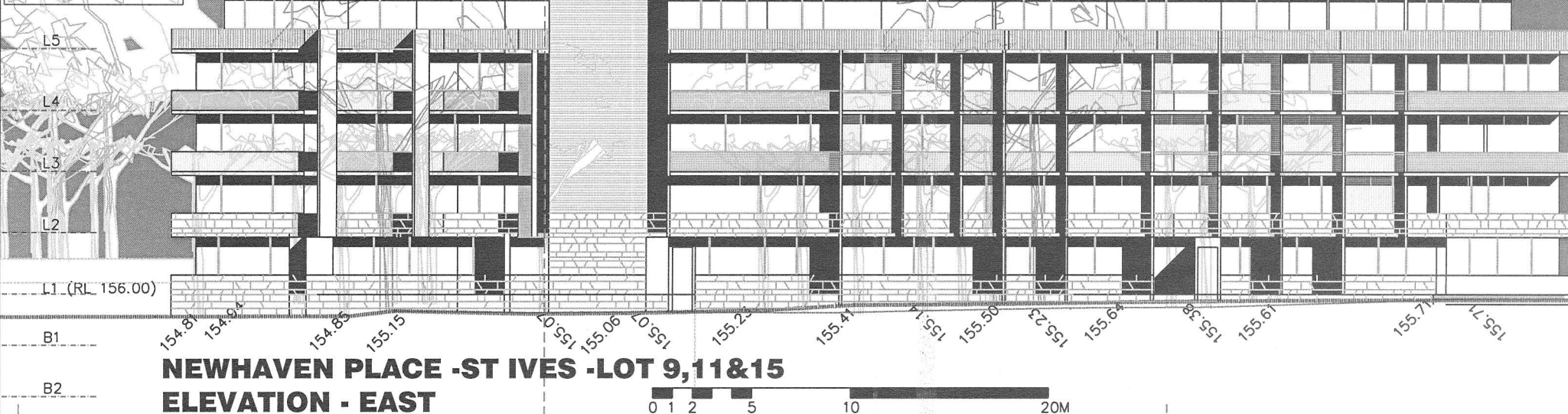
LOT 9, 11 & 15
PLAN - ROOF

0 1 2 5 10 20M

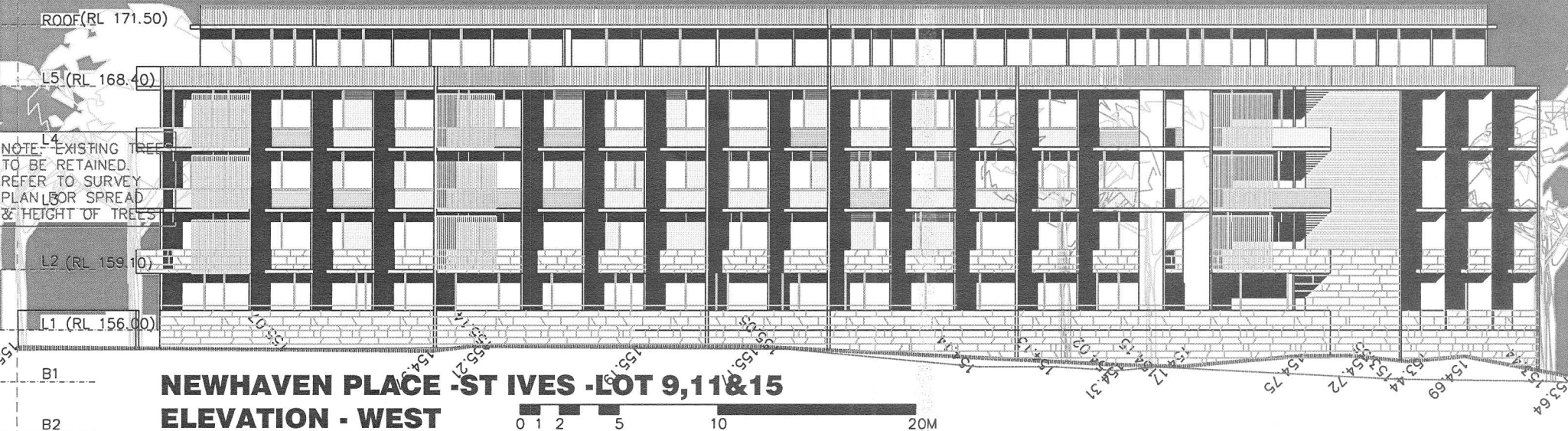


EXISTING TREES

NOTE: EXISTING TREES
TO BE RETAINED.
REFER TO SURVEY
PLAN FOR SPREAD
& HEIGHT OF TREES



**NEWHAVEN PLACE -ST IVES -LOT 9,11&15
ELEVATION - EAST**



**NEWHAVEN PLACE -ST IVES -LOT 9,11&15
ELEVATION - WEST**

PROPOSED RESIDENTIAL DEVELOPMENT - NEWHAVEN PLACE - ST IVES
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DE LA VEGA ARCHITECTS PTY LTD

NUMBER 1 - 335 EDGECLIFF ROAD - WOOLLAHRA - NSW 2025

PH: 61 02 9363 3455 FAX: 61 02 9363 9371

LOT 9,11 & 15 - NEWHAVEN PLACE

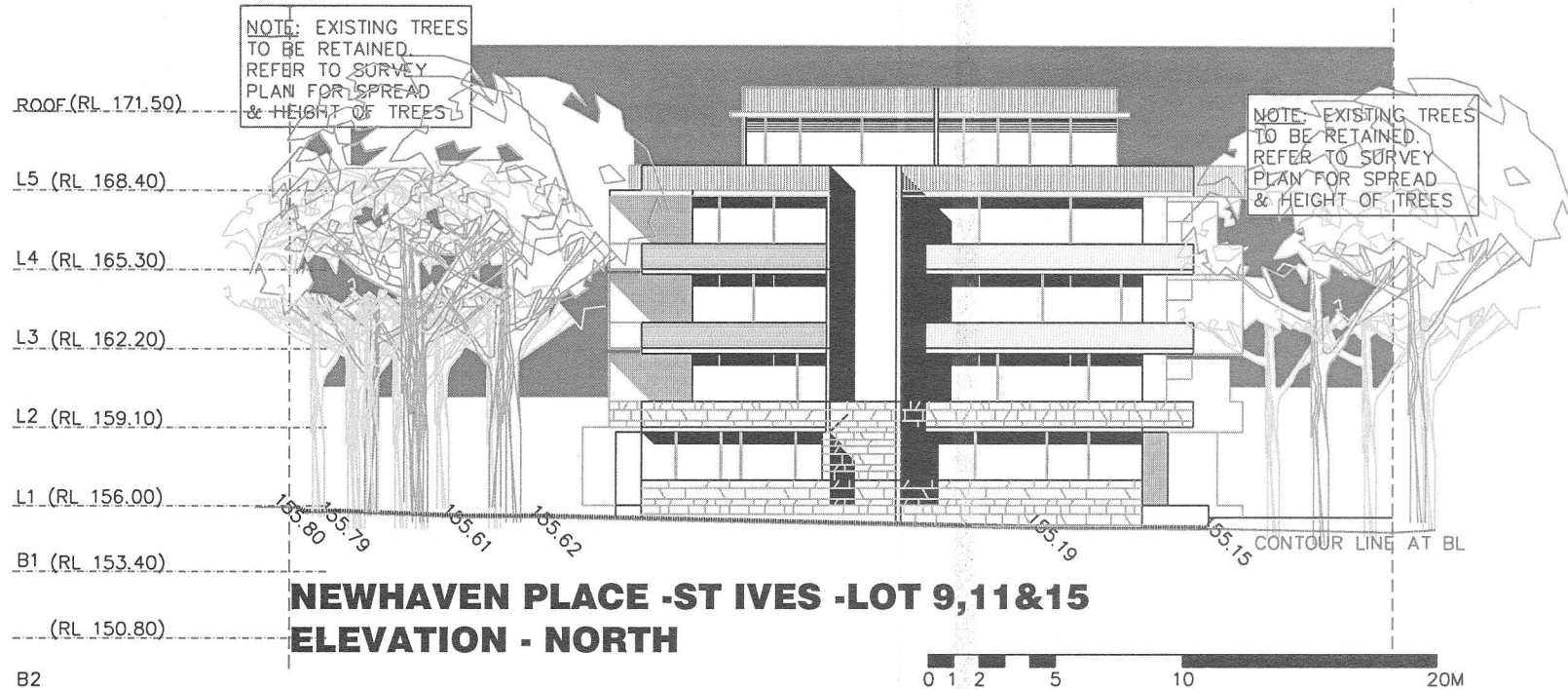
DATE: JUL 2005

REV: -
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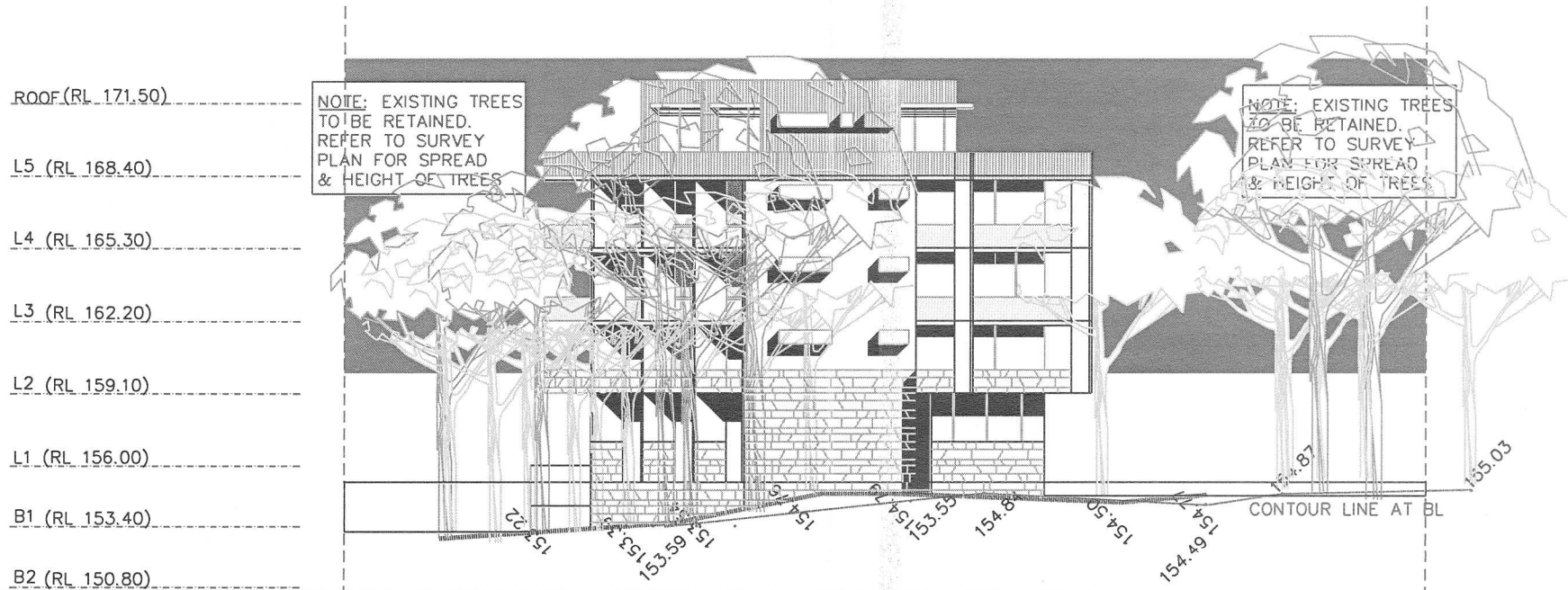
SCALE:
1/100 (A1)

DRAWING TITLE:
ELEVATIONS - 1

DRAWING NO.
DA-009



NEWHAVEN PLACE -ST IVES -LOT 9,11&15
ELEVATION - NORTH



PROPOSED RESIDENTIAL DEVELOPMENT - NEWHAVEN PLACE - ST IVES
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 DE LA VEGA ARCHITECTS PTY LTD NUMBER 1 - 335 EDGECLIFF ROAD - WOOLLAHRA - NSW 2025
NEWHAVEN PLACE -ST IVES -LOT 9,11&15
ELEVATION - SOUTH

LOT 9,11 & 15 - NEWHAVEN PLACE

DRAWING NO. DA-010
 DRAWING TITLE: ELEVATIONS - 2
 SCALE: 1/100 (A1)
 REV: A
 DATE: JULY 2005

ROOF (RL 171.50)

L5 (RL 168.40)

L4 (RL 165.30)

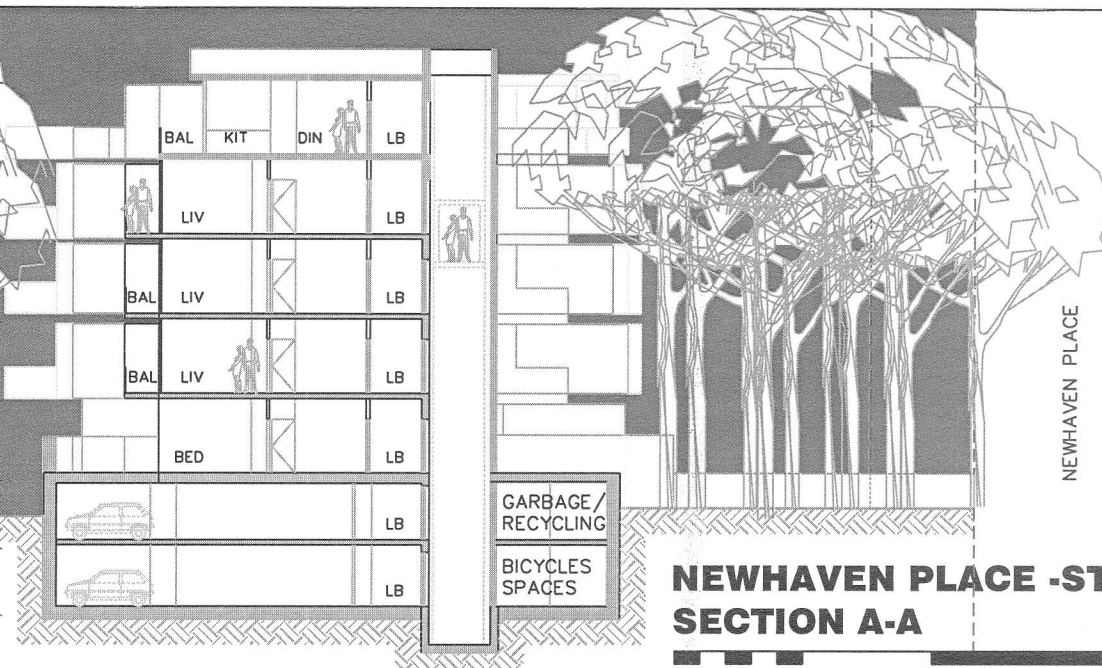
L3 (RL 162.20)

L2 (RL 159.10)

L1 (RL 156.00)

B1 (RL 153.40)

B2 (RL 150.80)



**NEWHAVEN PLACE -ST IVES -LOT 9,11&15
SECTION A-A**

0 1 2 5 10 20M

ROOF (RL 171.50)

L5 (RL 168.40)

L4 (RL 165.30)

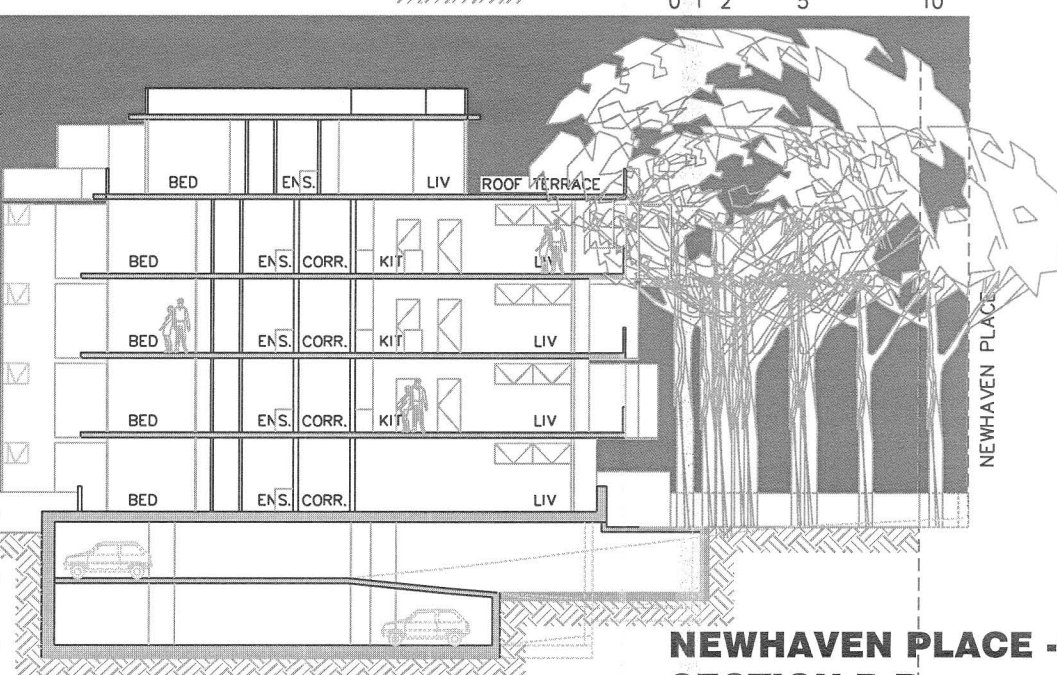
L3 (RL 162.20)

L2 (RL 159.10)

L1 (RL 156.00)

B1 (RL 153.40)

B2 (RL 150.80)

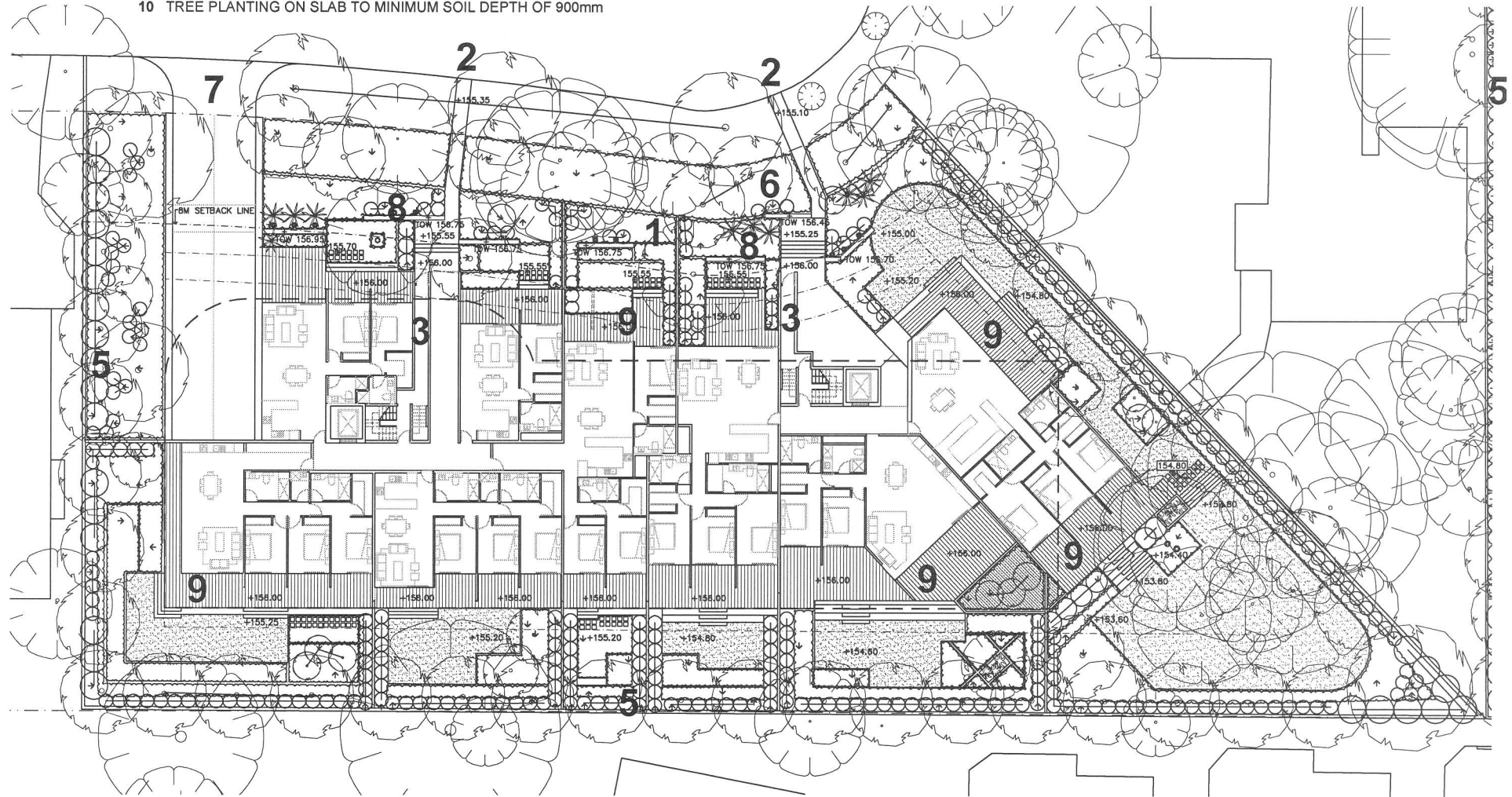


**NEWHAVEN PLACE -ST IVES -LOT 9,11&15
SECTION B-B**

0 1 2 5 10 20M

LEGEND

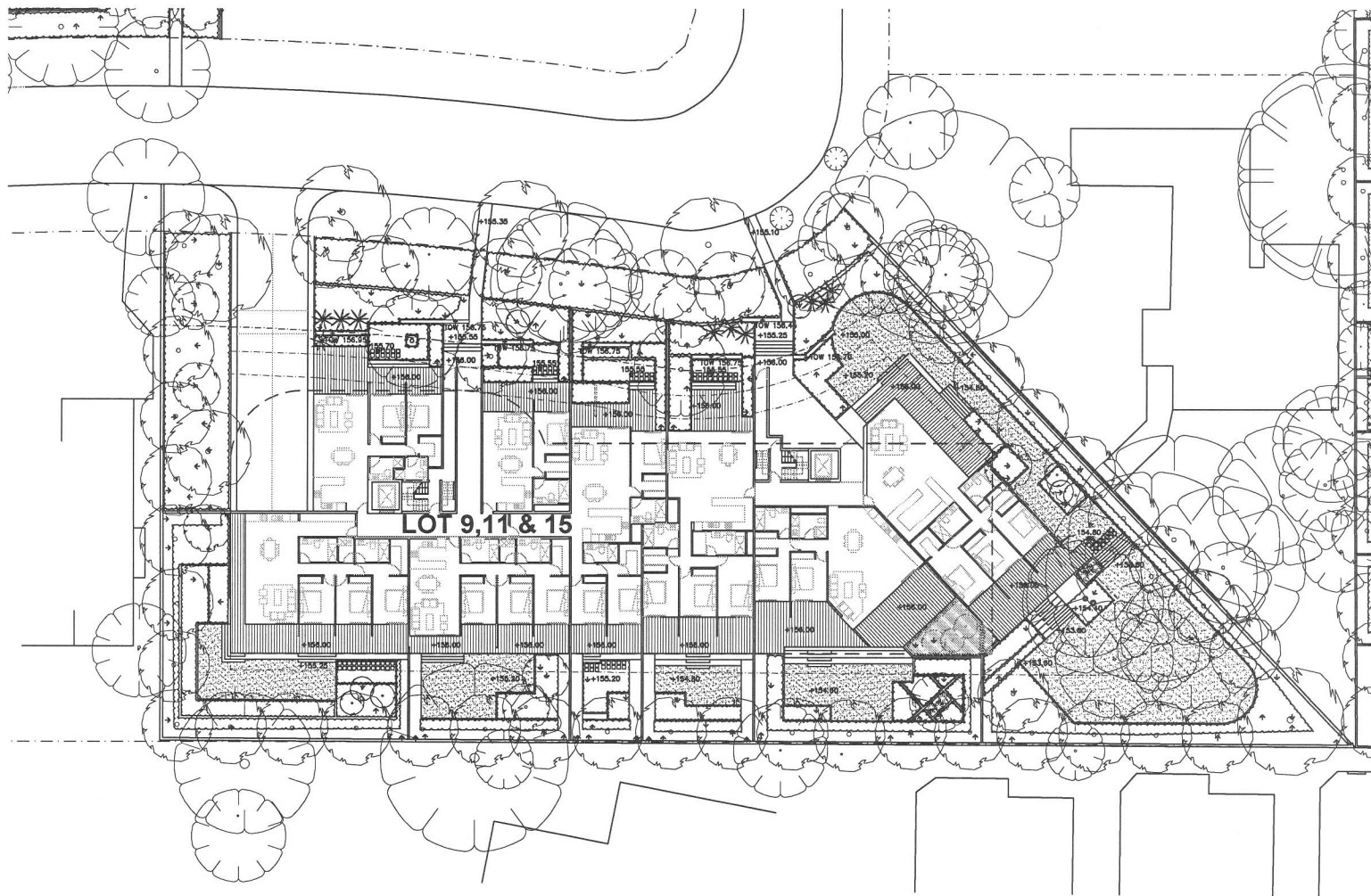
- 1 SCREEN HEDGE PLANTING PROVIDES PRIVACY TO PRIVATE COURTYARDS
- 2 MAIN PEDESTRIAN ACCESS FROM STREET
- 3 EMERGENCY ACCESS
- 4 SHRUB PLANTING ON SLAB TO MINIMUM SOIL DEPTH OF 400mm
- 5 SCREEN PLANTING TO BOUNDARY
- 6 NATIVE TREE AND SHRUB PLANTING TO PUBLIC SPACE
- 7 RAMPED ENTRY TO BASEMENT PARKING
- 8 FEATURE WALL TO PROVIDE VISUAL INTEREST AND PRIVACY
- 9 TIMBER DECK AREA PROVIDES A FLEXIBLE OUTDOOR SPACE
- 10 TREE PLANTING ON SLAB TO MINIMUM SOIL DEPTH OF 900mm














REV	ISSUE	DESIGNED	DATE
1	ISSUE FOR LOT	DE	01.12.04
2	REVISION FOR DA	DE	01.10.05



NEWHAVEN PLACE, ST. IVES
 Lot 9, 11 & 15 Landscape Concept Plan for Development
 Application
 Prepared by Context Landscape Design for DE LA VEGA ARCHITECTS PTY LTD
 Level 2, 52-58 William Street, East Sydney, N.S.W. Ph: 0244 8900 Fax: 0244 8908 Email: context@context.net.au
 Project No. 04558 Drawn DA No. LDR-01 Revision 0 Scale NTS October 2005



LEGEND

-  Basement Footprint
-  Property Boundary
-  Timber Decking
-  Sandstone Pavers in Planting (not more than 1m width)
-  Feature Wall
-  Turf
-  Planting on Grade
-  Planting on Slab
-  Seats / Steps
-  Existing Trees to be retained
-  Proposed Trees

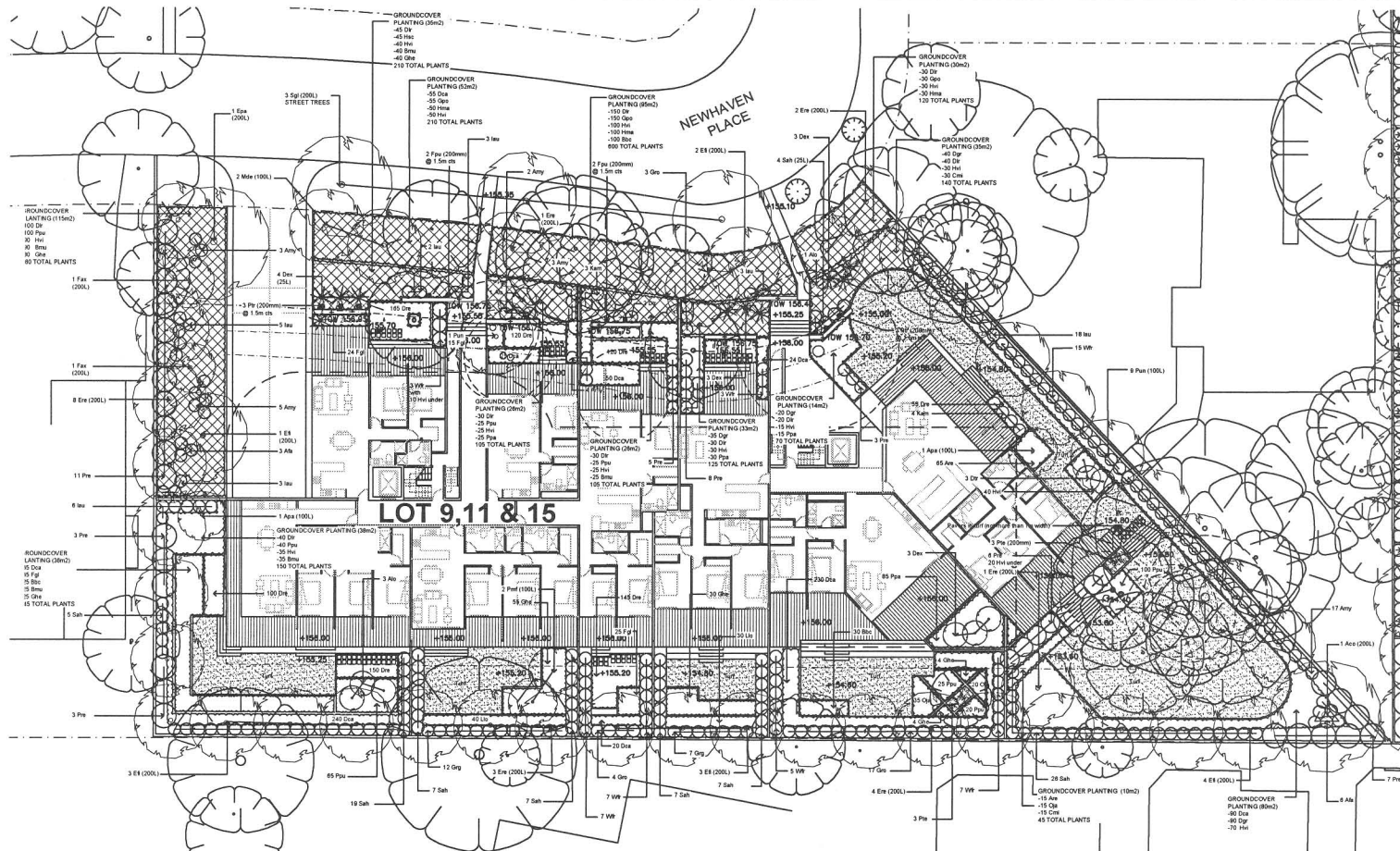
NOTE: LEVELS TO EXSISTING TREES ARE UNCHANGED



REV	DESCRIPTION	SIGNED	DATE
1	Issue for DA	RE	21.12.04
2	Revised for DA	RE	23.10.05



NEWHAVEN PLACE, ST. IVES
 Lot 9, 11 & 15 Landscape Finishes Plan for Development Application
 Prepared by Context Landscape Design for DE LA VEGA ARCHITECTS Pty Ltd
 Level 2, 52-58 William Street, East Sydney, N.S.W. Ph: 8244 8990 Fax: 8244 8998 Email: context@context.net.au
 Project No. 04358 Dwg DA No. L04-02 Revision B Scale 1:200 @ A1 October 2005

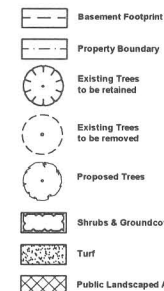


NEWHAVEN LOT 9, 11 & 15 PLANT SCHEDULE

Symbol	Botanical name	Common name	Mature Size	Spacing	Pot Size	Quantity
Trees						
Aco	<i>Angophora costata</i>	Sydney Red Gum	15m	As Shown	200L	1
Apa	<i>Acer palmatum</i>	Japanese Maple	6m	As Shown	75L	2
Asm	<i>Acmena smithii</i>	Lily Pilly	6m	As Shown	100L	9
El	<i>Eucalyptus fibrosa</i>	Broad-leaved Ironbark	15m	As Shown	200L	10
Epa	<i>Eucalyptus punctata</i>	Grey Ironbark	30m	As Shown	200L	1
Ere	<i>Glaucolobos reticulatus</i>	Blueberry Ash	8m	As Shown	200L	16
Fax	<i>Franklinia avicillaris</i>	Gordonia	5m	As Shown	200L	2
Id	<i>Melaleuca decora</i>	White Feather Honey myrtle	8m	As Shown	100L	2
Pnd	<i>Prunus serrulata 'M. Fuji'</i>	Mt Fuji Flowering Cherry	8m	As Shown	100L	2
Pun	<i>Pittosporum undulatum</i>	Sweet Pittosporum	8m	As Shown	100L	10
Sgl	<i>Syncarpia glomulifera</i>	Turpentine	15-20m	As Shown	200L	3
Shrubs						
Ala	<i>Acacia falcata</i>	Sickle Wattle	3m	As Shown	200mm	6
Ala	<i>Acacia longifolia</i>	Sydney Golden Wattle	3-7m	As Shown	200mm	5
Am	<i>Acacia myrtifolia</i>	Myrtle Wattle	2m	As Shown	200mm	30
Dex	<i>Doronicum exaltatum</i>	Gymea Lily	2-3m	1000mm	25L	13
Dr	<i>Dodonaea viscosa</i>	Hop Bush	2-3m	1000mm	25L	5
Gri	<i>Grevillea 'Robyn Gordon'</i>	Robyn Gordon Grevillea	1-2m	800mm	25L	65
Gro	<i>Grevillea rosmarinifolia 'Green'</i>	Rosemary Spider Flower	1-2m	800mm	200mm	24
Hma	<i>Hymenocallis x macrostachya</i>	Spider Lily	750mm	500mm	200mm	180
Ind	<i>Indigofera australis</i>	Australian Indigo	2m	1000mm	200mm	34
Kam	<i>Kunzea ambigua</i>	White Kunzea, Tick Bush	2-3m	As Shown	200mm	43
Pie	<i>Pittosporum undulatum</i>	Yellow Pittosporum	3m	As Shown	200mm	24
Pie	<i>Phormium tenax</i>	New Zealand Flax	2-3m	As Shown	25L	6
Sah	<i>Syzygium australe 'Hunchy'</i>	Henchy Lillypillilly	1-2m	800mm	25L	59
YR	<i>Westringia frutescens</i>	Coast Rosemary	1-2m	800mm	200mm	47
Groundcovers and Climbers						
Are	<i>Anga repens</i>	Anga	300mm	300mm	200mm	80
Btc	<i>Banksia 'Bartley's Candies'</i>	Banksia	400mm	500mm	200mm	155
Bmu	<i>Brachycome multifida</i>	Cut Leaf Daisy	300mm	350mm	200mm	215
Cms	<i>Civina minima</i>	Kaffir Lily	450mm	450mm	200mm	45
Dex	<i>Dichondra repens</i>	Kidney weed	100mm	250mm	100mm	830
Egl	<i>Festuca glauca</i>	Blue Fescue	450mm	400mm	150mm	65
Fpu	<i>Ficus pumila</i>	Creeping Fig	5-10m	As Shown	200mm	4
Ghe	<i>Gonolobus hederifolius</i>	Viol-leaved Gonolobus	500mm	500mm	200mm	148
Gpo	<i>Grevillea 'Poonindia Royal Mantle'</i>	Poonindia Grevillea	300mm	600mm	200mm	230
Ma	<i>Hardyana violacea</i>	Pale Salicaria	150mm	400mm	100mm	575
Oia	<i>Oenothera speciosa</i>	Black Gaura	150mm	300mm	200mm	60
Pipa	<i>Pandorea pandorana</i>	Wonga Wonga Vine	8m	1500mm	200mm	255
Ppu	<i>Pilea purpurea</i>	White Root	Prestate	200mm	200mm	400
Pt	<i>Parthenocissus tricuspidata</i>	Boston Ivy	5-10m	1500mm	200mm	5
Native Grasses						
Dca	<i>Danthonia cuneata</i>	Flax Lily	1m	6m2	200mm	710
Dgr	<i>Dactyloctenium aegyptium</i>	Wild Iris	1m	500mm	200mm	185
Dr	<i>Danthonia 'Little Red'</i>	Little Red Danthonia	400mm	300mm	200mm	515
Lc	<i>Lomandra longifolia</i>	Lomandra	700mm	4m2	200mm	70

Note: Highlighted (in grey) plants are included on the NSW National Parks and Wildlife Service Sydney Turpentine-Ironbark Forest -Endangered Ecological Community Listing

LEGEND



EXISTING TREE SCHEDULE

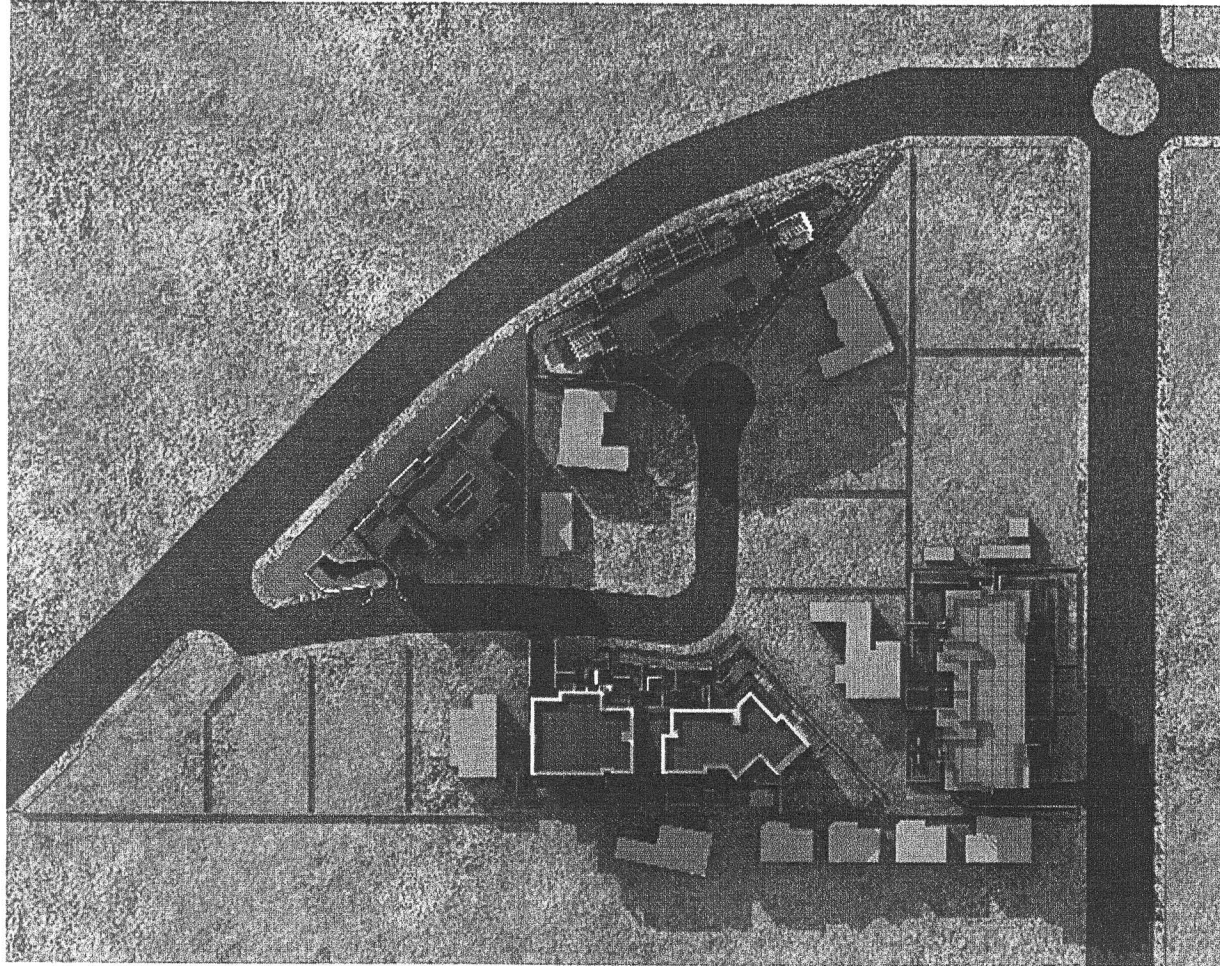
Id. No.	Species	Height	Spread	Recommendation
4	<i>Ulmus glabra 'Lutescens'</i> (Golden Elm)	7	9	To be retained
5	<i>Prunus campanulata</i> (Taw annee Cherry)	7	7	To be retained
6	<i>Syncarpia glomulifera</i> (Turpentine)	20	7	To be retained
7	<i>Syncarpia glomulifera</i> (Turpentine)	18	8	To be retained
8	<i>Syncarpia glomulifera</i> (Turpentine)	15	7	To be removed
9	<i>Syncarpia glomulifera</i> (Turpentine)	17	6	To be removed
10	<i>Syncarpia glomulifera</i> (Turpentine)	18	7	To be removed
11	<i>Syncarpia glomulifera</i> (Turpentine)	22	9	To be retained
12	<i>Syncarpia glomulifera</i> (Turpentine)	10	7	To be retained
13	<i>Syncarpia glomulifera</i> (Turpentine)	15	8	To be retained
14	<i>Syncarpia glomulifera</i> (Turpentine)	16	8	To be retained
15	<i>Ulmus glabra 'Lutescens'</i> (Golden Elm)	6	8	To be retained
16	<i>Ulmus glabra 'Lutescens'</i> (Golden Elm)	7	8	To be retained
17	<i>Betula pendula</i> (Silver Birch)	7	4	To be removed
18	<i>Corymbia citriodora</i> (Lemon-scented Gum)	17	10	To be removed
19	<i>Acer palmatum</i> cv. (Japanese Maple)	2.5	2	To be retained
20	<i>Ulmus glabra 'Lutescens'</i> (Golden Elm)	4	4	To be retained
21	<i>Syncarpia glomulifera</i> (Turpentine)	16	11	To be retained
22	<i>Liquidambar styraciflua</i> (American Sweet Gum)	14	10	To be retained
23	<i>Syncarpia glomulifera</i> (Turpentine)	14	7	To be retained
24	<i>Syncarpia glomulifera</i> (Turpentine)	12	5	To be retained
25	<i>Syncarpia glomulifera</i> (Turpentine)	10	5	To be retained
26	<i>Eucalyptus ptilularis</i> (Blackbutt)	22	16	To be retained
27	<i>Cupressus macrocarpa 'Bruniana Aurea'</i> (Golden Brunings Cypress)	14	6	To be retained
28	<i>Syncarpia glomulifera</i> (Turpentine)	18	10	To be retained
29	<i>Syncarpia glomulifera</i> (Turpentine)	20	10	To be retained
40	<i>Syncarpia glomulifera</i> (Turpentine)	20	12	To be retained
41	<i>Syncarpia glomulifera</i> (Turpentine)	20	9	To be retained
42	<i>Syncarpia glomulifera</i> (Turpentine)	12	6	Consider removal (poor specimen)
43	<i>Syncarpia glomulifera</i> (Turpentine)	16	8	To be retained
44	<i>Syncarpia glomulifera</i> (Turpentine)	16	6	Consider removal (poor specimen)
45	<i>Syncarpia glomulifera</i> (Turpentine)	10	8	Consider removal (poor specimen)
46	<i>Syncarpia glomulifera</i> (Turpentine)	18	8	To be retained
47	<i>Syncarpia glomulifera</i> (Turpentine)	14	8	To be retained
48	<i>Syncarpia glomulifera</i> (Turpentine)	8	5	Consider removal (poor specimen)
49	<i>Syncarpia glomulifera</i> (Turpentine)	18	10	To be retained
50	<i>Syncarpia glomulifera</i> (Turpentine)	8	8	Consider removal (poor specimen)
52	<i>Pittosporum undulatum</i> (Native Daphne)	9	6	To be retained
53	<i>Syncarpia glomulifera</i> (Turpentine)	17	12	To be retained
54	<i>Pittosporum undulatum</i> (Native Daphne)	6	6	To be retained
55	<i>Syncarpia glomulifera</i> (Turpentine)	12	7	To be retained
56	<i>Archontophoenix alexandrea</i> (Alexandra Palm)	7	3	To be retained
57	<i>Brachychiton acerifolius</i> (Hawara Flame Tree)	6	5	To be retained
58	<i>Persea americana</i> (Avocado Pear)	5	4	To be retained
59	<i>Eucalyptus ptilularis</i> (Blackbutt)	20	16	To be retained
60	<i>Pittosporum undulatum</i> (Native Daphne)	4	5	To be retained
61	<i>Archontophoenix alexandrea</i> (Alexandra Palm)	8	5	To be retained
62	<i>Allocasuarina littoralis</i> (Black she-oak)	10	6	To be retained

REV	ISSUE	SHOWN	DATE
A	Issue for DA	RE	31.12.04
B	Revised for DA	RE	12.02.05
C	Revised for DA	RE	6.10.05



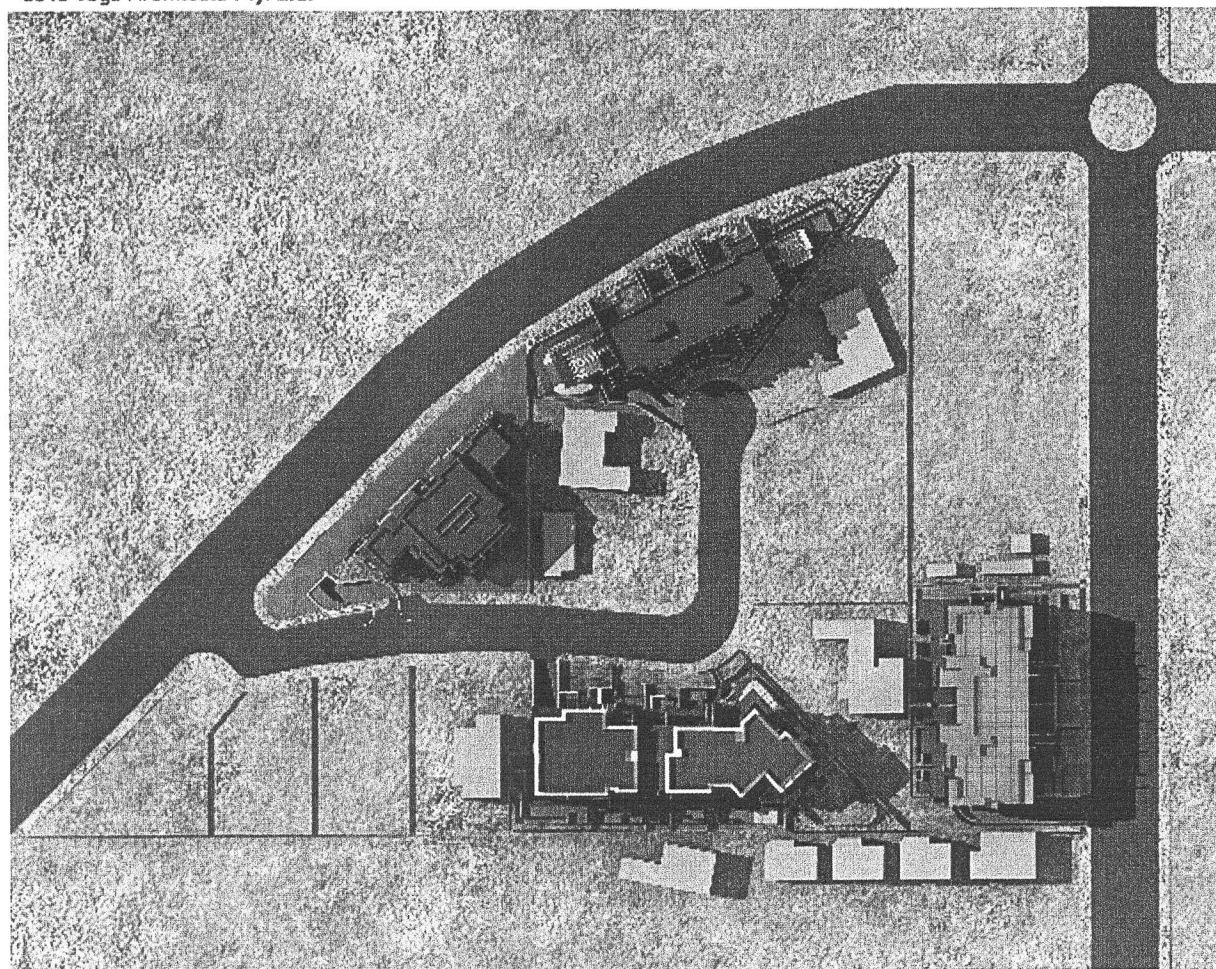
NEWHAVEN PLACE, ST. IVES
 Lot 9, 11 & 15 Landscape Planting Plan for Development Application
 Prepared by Context Landscapes Design for DE LA VEGA ARCHITECTS Pty Ltd
 Level 2, 52-58 William Street, East Sydney, N.S.W. Ph: 8244 8988 Email: context@context.net.au
 Project No. 04.558 Dwg DA No. LSK-03 Revision C Scale 1:300 @ A1 October 2005

de la Vega Architects Pty. Ltd.



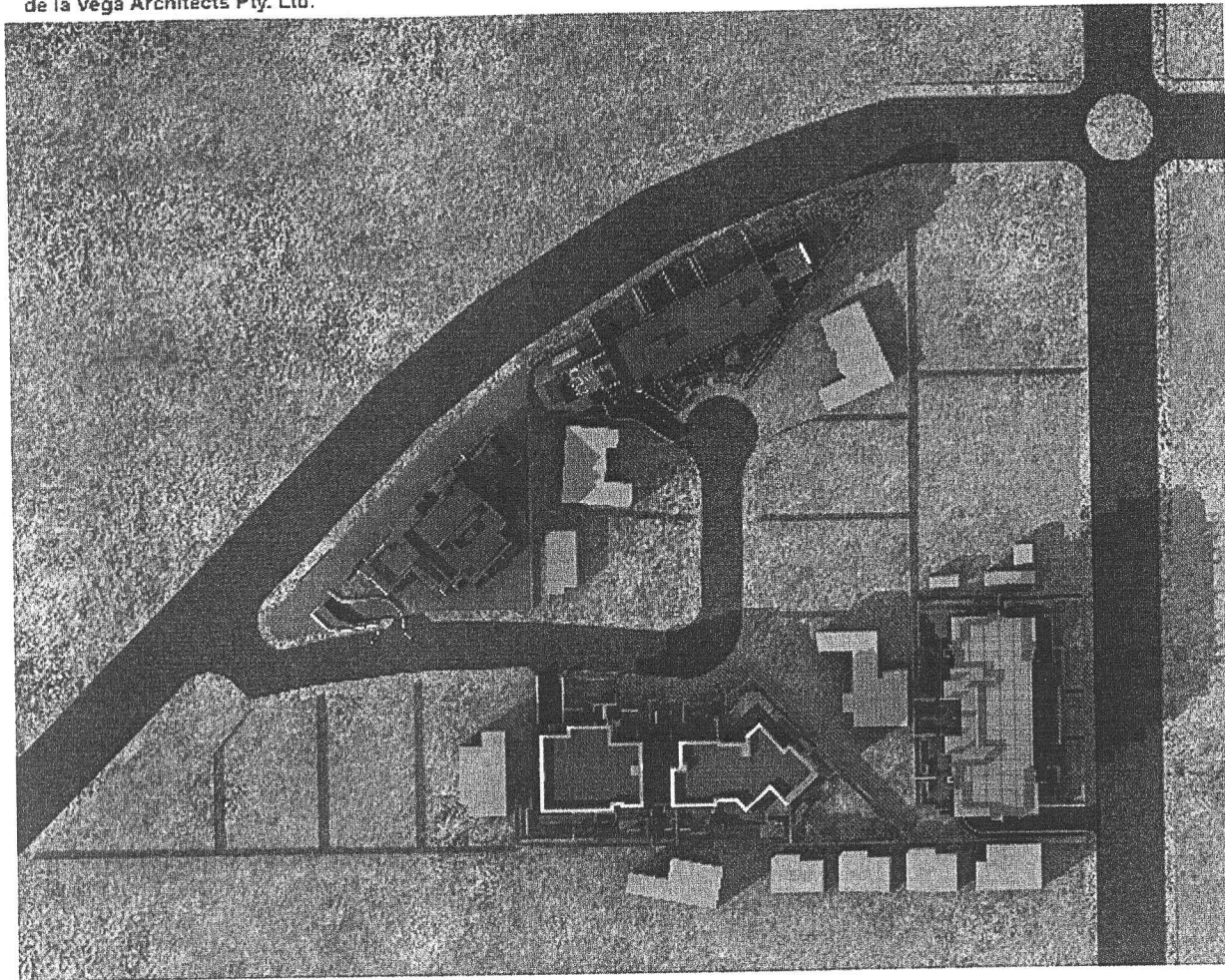
SHADOW 21st JUNE 09:00am

de la Vega Architects Pty. Ltd.



SHADOW 21st JUNE 12:00pm

de la Vega Architects Pty. Ltd.



SHADOW 21st JUNE 03:00pm

Item 2

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	1 TO 7 BRUCE AVENUE & 6 GREENGATE LANE, KILLARA - DEMOLITION OF 4 SINGLE DWELLINGS AND 1 DUAL OCCUPANCY AND CONSTRUCTION OF A 5 STOREY RESIDENTIAL FLAT BUILDING CONTAINING 42 UNITS, ASSOCIATED BASEMENT CAR PARKING AND STRATA SUBDIVISION
WARD:	Gordon
DEVELOPMENT APPLICATION N^o:	514/05
SUBJECT LAND:	1 to 7 Bruce Avenue & 6 Greengate Lane, Killara
APPLICANT:	Colonial State Properties P/L
OWNER:	Energy Australia, Anthony and Joy Kennedy, Laurice Hinder, Simon and Michela Brady, Naomi Upton, Kit Yeung
DESIGNER:	James Grant, Fortey and Grant Architecture
PRESENT USE:	Residential dwellings
ZONING:	2(d3)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO, DCP 55 - Multi-Unit Housing, DCP 31 - Access, DCP 40 - Waste Management, DCP 43 - Car Parking, DCP 47 - Water Management
COMPLIANCE WITH CODES/POLICIES:	No (KPSO)
GOVERNMENT POLICIES APPLICABLE:	SEPP 1, SEPP 55, SEPP 65
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	27 May 2005
40 DAY PERIOD EXPIRED:	6 July 2005
PROPOSAL:	Demolition of 4 single dwellings and 1 dual occupancy and construction of a 5 storey residential flat building containing 42 units, associated basement car parking and strata subdivision
RECOMMENDATION:	Approval

Item 2

DEVELOPMENT APPLICATION N^o 514/05
PREMISES: 1 - 7 BRUCE AVENUE & 6 GREENGATE
LANE, KILLARA
PROPOSAL: DEMOLITION OF 4 SINGLE DWELLINGS
AND 1 DUAL OCCUPANCY AND
CONSTRUCTION OF A 5 STOREY
RESIDENTIAL FLAT BUILDING
CONTAINING 42 UNITS, ASSOCIATED
BASEMENT CAR PARKING AND STRATA
SUBDIVISION
APPLICANT: COLONIAL STATE PROPERTIES P/L
OWNER: ENERGY AUSTRALIA, ANTHONY AND JOY
KENNEDY, LAURICE HINDER, SIMON AND
MICHELA BRADY, NAOMI UPTON, KIT
YEUNG
DESIGNER JAMES GRANT, FORTEY AND GRANT
ARCHITECTURE

PURPOSE FOR REPORT

To determine development application No.514/05 which seeks consent for the demolition of 4 single dwellings and 1 dual occupancy and the construction of a 5 storey residential flat building containing 42 units and associated basement car parking.

EXECUTIVE SUMMARY

- Issues:**
- Height.
 - Traffic and access.
 - Heritage setting of Greengate Hotel.
 - Local context.
 - Privacy.
 - Internal amenity.
 - Setback to courtyards.

Submissions: 23 Submissions (original scheme)
8 submissions (amended plans)

Land & Environment Court Appeal: No appeal lodged

Recommendation: Approval

Item 2

HISTORY

Site history:

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

Development application history:

DA 514/05

16 March 2005	Pre-lodgement consultation held between Council officers and applicant. This design incorporated 2 buildings on the site. Particular concern was raised in relation to the adequacy of the building separation and front setbacks, overshadowing of communal open space, poor design on building entries and the method of addressing the corner location.
27 May 2005	Application lodged
15 June 2005	Request to applicant for further information on landscaping and heritage.
21 June 2005	Further landscaping information received, including amended plans to address deep soil issues.
23 June 2005	Request to applicant for further information on landscaping, height, subdivision, and owners' consent.
1 July 2005	Amended plans and owners' consents received.
13 July 2005	SEPP No. 1 objection (height) and information on materials received.
26 July 2005	Remaining owner's consent received.
4 August 2005	Survey overlay and comment on setbacks in relation to heritage received.
8 August 2005	Correspondence regarding solar access issues sent to applicant.
8 August 2005	Correspondence received in response to submissions.
11 August 2005	Preliminary comments from urban design consultant sent to applicant- heritage and solar access issues- amended plans requested.
18 August 2005	Information received re solar access, building relocation, height, materials.
22 August 2005	Correspondence received from applicant regarding possible relocation of building to the east.

Item 2

- 8 September 2005 Amended plans received, relocating building to the east, solar access, SEPP No. 1 objection.
- 15 September 2005 Re-notification of plans due to relocation of building.
- 27 September 2005 Amendment to height, and SEPP No. 1 objection received.
- 28 September 2005 Concept for fire services room amendments regarding ceiling heights received.
- 5 October 2005 Strata subdivision plan and amendments in regard to fire services room received.

THE SITE AND SURROUNDING AREA

Zoning:	2(d3)	
Visual Character Study Category:	1920-1945	
Lot & DP Number:	1 Bruce Avenue	Lot 1, DP168563
	3 Bruce Avenue	Lot 1, DP168562
	5 Bruce Avenue	Lot 1, DP168561
	7 Bruce Avenue	Lot 42, DP786430
	6 Greengate Lane	Lot 41, DP786430
	Greengate Lane	Lot 3, DP772155
Heritage Affected:	The site is located diagonally opposite two heritage listed properties at No.655A Pacific Highway – The Greengate Hotel and 663 Pacific Highway. The site itself is not listed nor is it located within a conservation area.	
Bush Fire Prone Land:	No	
Endangered Species:	No	
Urban Bushland:	No	
Contaminated Land:	No	

The subject site comprises of six allotments totalling 3960 m². The site is bounded on three sides by public roads, Bruce Avenue to the north, and Greengate Lane to the south and west. The fourth (eastern) boundary adjoins a single residential allotment which is zoned 2(d3). The site is rectangular in shape and has a frontage of 61.4 metres to Bruce Avenue and a depth of approximately 63 metres. The site is approximately 60 metres from the Pacific Highway and approximately 820 metres from Killara Railway Station.

Both Bruce Avenue and Greengate Lane are two-way sealed roads, however, Greengate Lane is generally 4 metres wide without any formalised kerbs.

The site has a fall of approximately 7 metres from its north-western to its south-eastern corners. Stormwater drains to Greengate Lane. Lawns and shrubs and approximately 41 trees are scattered across the site. These are mostly exotic species.

Item 2

The site currently contains the following:

Property	Structures	Description
1 Bruce Ave	Single storey dwelling, detached single garage	Federation style dwelling
3 Bruce Ave	Single storey dwelling	Federation style dwelling
5 Bruce Ave	Single storey dwelling	Federation style dwelling
7 Bruce Ave	Detached dual occupancy with separate single garage	Approved 1993
6 Greengate Lane	Two storey dwelling with attached garage	Approximately 15-20 years old
- Greengate Lane	Concrete slab	Former electricity substation

The heritage impact statement by Mr Robert Staas describes the dwellings at 1-5 Bruce Avenue as “good representative examples of late Federation style bungalows typical of the early 20th Century development of this part of Killara following its subdivision.”

These three dwellings are listed as contributory items in the National Trust Urban Conservation Area, but have no statutory heritage listing (see photos in **Appendix 1**).

Surrounding development:

The site is located in an area characterised by residential development, with the exception of the Greengate Hotel, which is on land zoned 3A-A2 (Business – Retail Services).

The rear of the heritage listed Greengate Hotel faces the subject site on the southern corner across Greengate Lane. The hotel has terraces on two levels which overlook the development site (see **Appendix 1**).

To the south of the subject site, at 2 Greengate Road Killara, is a three storey residential flat building on land zoned 2(d) (see **Appendix 1**).

Also opposite the subject site, to the south of Greengate Lane, are the rear yards of properties zoned 2(c2), which each contain single dwelling houses, set back 18.6 - 22 metres from the boundary with Greengate Lane. The rear yards are characterised by landscaping with lawns and a number of mature trees and a timber fence to 1.8 metres in height (see **Appendix 1**).

Nos. 657-661 Pacific Highway, currently a vacant lot, is located to the west of the subject site. An application (DA677/05) for a residential flat building with car parking for the hotel has been lodged with Council under the 2(d3) zoning. A set of 3 storey townhouses are proposed to face Greengate Lane as part of this development.

On the northern side of Bruce Avenue, are single residential dwellings to 2 storeys, on land zoned 2(d3) (see **Appendix 1**). This area is likely to be re-developed for residential flat buildings to 5 storeys in height.

Item 2

To the west, on the corner of Bruce Avenue and the Pacific Highway, is a single heritage listed, two storey, dwelling on land zoned 2(b) (see **Appendix 1**).

No. 9 Bruce Avenue, located to the east of the subject site, currently contains a residential dwelling with a swimming pool in the rear yard (see **Appendix 1**). This site is zoned 2(d3) and is included in a current application (DA983/05) for a 5 storey residential flat building.

THE PROPOSAL

The proposal involves the demolition of the existing structures, amalgamation of the 6 lots, construction of a residential flat building containing 42 units, associated car parking and strata subdivision.

The proposal is five storeys in height, with three levels of basement car parking. The building is L-shaped and steps down 1.5 metres from its north-western section to its north-eastern and southern portions.

The building will be set back between 13.2 - 15 metres from Bruce Avenue, 6 metres from Greengate Lane (west), 6.6 metres and 29.5 metres from Greengate Lane (south), and 9 metres from the eastern boundary. The maximum perimeter ceiling height (as defined by LEP 194) is 13.02 metres, with the ridge height an additional 3.3 metres.

The main components of the proposal are as follows:

- A total of 42 units comprising 32 x 3 bedroom units, 6 x 2 bedroom units and 4 x 1 bedroom units with balconies or ground level open space. The units vary in size from 62.7 m² to 190.4 m²;
- A total of 91 car parking spaces, comprising 79 resident spaces and 12 visitor spaces. The basement also includes a car wash bay, bicycle parking, waste area and stormwater retention tanks;
- 2 lifts are provided from the basement levels through to the top floor;
- The common area that includes a swimming pool, spa, bathroom, paved area and barbeque;
- A steel picket fence to the street boundaries and a 1.8m high timber fence to the boundary with No. 9 Bruce Avenue.

Pedestrian entry is available on three sides. The main pedestrian entry is from Bruce Avenue. Pedestrian access is also gained via Greengate Lane to the west and to the south. Vehicular access is via a 6 metres wide driveway off the southern section of Greengate Lane.

Five (5) trees are proposed to be retained, including a significant *Eucalyptus cinerea* (Argyle Apple) on Bruce Avenue, and extensive landscaping is proposed with an additional 24 large trees.

Amended plans dated 21 June 2005

- Relocation of pool
- Other minor landscaping changes to increase the deep soil area.

Item 2

Amended plans dated 1 July 2005

- Redesign of front pathway, private terraces and other minor landscaping changes to increase the deep soil area to 50% of the site.

Amended plans dated 30 August 2005

- Relocation of the building to 2.4 metres to the west, resulting in setbacks of 8.4 metres to Greengate Lane and 6 metres from the eastern boundary.
- Reduction in height of some of the retaining walls to private open space areas.
- Amended shadow diagrams.
- Removal of fin walls to balconies.
- The maximum perimeter ceiling height (as defined by LEP 194) of 13.48 metres.

Amended plans dated 26 September 2005

- Reduction of maximum perimeter ceiling height to 13.18 metres by reducing slab sizes.

Amended plans dated 5 October 2005

- Change in access to fire services room to comply with BCA

CONSULTATION - COMMUNITY

In accordance with Council's Notification Policy, owners of surrounding properties were given notice of the application. In response, 23 submissions were received:

Original scheme dated 27 May 2005

1. David Ascroft, 24 Greengate Lane, Killara
2. JM Lanser, 2/2 Greengate Rd, Killara
3. Stewart & Patricia Cooper, PO Box 694, Gordon
4. Mr Tanuwidjojo, 20 Greengate Rd, Killara
5. Peter & Loretta Woodhead, 8 Greengate Rd, Killara
6. Chris Kollias, 67 Gueudecourt Ave, Earlwood
7. Ken Knox, 10 Greengate Rd, Killara
8. Roger & Barb Illingworth, 12 Greengate Rd, Killara
9. TJ & JE Hart, 14 Greengate Rd, Killara
10. E J O'Donnell, 16 Greengate Rd, Killara
11. M R O'Donnell, 16 Greengate Rd, Killara
12. Janet O'Donnell, 16 Greengate Rd, Killara
13. Jung Hun Lee, 18 Greengate Rd, Killara
14. William Fazl & Josephine Beumont, 25 Greengate Rd, Killara
15. Tom & Michelle Howard & O'Dea, 26 Greengate Rd, Killara
16. Edith Chang, 29 Greengate Rd, Killara

Item 2

17. B & P Burdett Nettleton, 27 Greengate Rd, Killara
18. Mark Wong, 31 Greengate Rd, Killara
19. Edwina Fawcett, 22 Greengate Rd, Killara
20. Brian & Rhonda Mills, 23 Greengate Rd, Killara
21. Daphne Beumont, 25 Bruce Ave, Killara
22. Graham & Sandra Chipps, 702 Pacific Highway, Killara
23. Christopher Hallam & Associates P/L, PO Box 1021, Glebe Point & Minutes of Greengate Residents Meeting.

The submissions raised the following issues:

Access via Greengate Lane- the development should be accessed via Bruce Avenue

The site slopes away from Bruce Avenue. Entry from Bruce Avenue, leading down to a basement car park, would result in practical design difficulties due to grade changes. Entry from the lower side to access the basement car parking is a more practical solution. Further, SEPP 65 and the Residential Flat Design Code encourage the use of laneways and secondary streets for vehicular access to allow for active main street frontages, to enable separation of pedestrian and vehicle access and to avoid compromising street and landscape character. The design of the proposal in this regard, meets these requirements.

Vehicular safety Greengate Lane - state of road, width not adequate or compliant with AS 2890.1.2004

The applicant has submitted a Traffic Assessment Report which relies on traffic counts to establish a representation of pre-developed traffic volumes on normal working days. The report has been reviewed by Council's Engineering Assessment Acting Team Leader, Kathy Hawken, in relation to traffic generation, vehicle access and parking.

Ms Hawken concludes that Greengate Lane is capable of supporting the traffic generated by the development. Council's internal traffic study has considered alternatives for traffic flow in the locality, including road widening in Bruce Avenue (parallel to the railway line), and implementation of one-way flow in Greengate Lane. It is understood that the process of implementing this is underway and such measures would cater for the cumulative impacts from other multi-unit development that is anticipated under the zoning of adjoining sites.

Overflow parking from Greengate Hotel prevents safe vehicular access, including large vehicles such as waste collection vehicles. Parking restrictions on Greengate Lane are needed, however, this in turn would lead to insufficient on-street parking in locality

Waste is currently collected from Greengate Lane, however, there have been problems with access for waste collection vehicles when vehicles are parked close to the subject site. The proposed development will use small waste vehicles which will not encounter the same problems. Residents have been requested not to park in this area, however, Council will monitor the situation to assess whether parking restrictions are required. Visitors to the site are expected to use visitor parking

Item 2

spaces or Bruce Avenue. Additional parking for the hotel is proposed provided on 657-661 Pacific Highway.

Insufficient visitor parking, resulting in further congestion in local streets

The proposal provides generous parking through 5 additional resident spaces and one additional visitor space. The quantum of car parking proposed is compliant with Council's Development Control Plan No. 43 – Car Parking and DCP No. 55.

Pedestrian/cyclist safety Greengate Lane, Bruce Avenue

Neither Greengate Lane nor Bruce Avenue have existing footpaths. Greengate Lane has no curb and gutter. A condition of consent is recommended, requiring the applicant to provide a footpath for the Bruce Avenue frontage, and construct half width road pavement in Greengate Lane (west) and road pavement in Greengate Lane (south) for the full frontage of the development, including new upright kerb and gutter (**Condition No. 106**). Council's Strategic Traffic Engineer has carried out an internal traffic study, and one way traffic is being considered for Greengate Lane which will allow for improved safety for pedestrians and cyclists, either as a shared road or with a separate footpath.

Safety from restricted sight lines

Vehicles will have adequate on site manoeuvring for forward entry and exit to and from the site. Drivers will have adequate sight lines in both directions of the lane when entering and exiting the site. One way traffic would improve safety at the corners of concern. In addition, a condition is recommended that the treatment of the 90 degrees corner of Greengate Lane (south) and Greengate Lane (west) be redesigned to improve sight lines (**Condition No. 62**).

Impact from additional traffic noise and from waste collection

The site has been designed to permit multi-unit development and the minor additional traffic noise expected is consistent with that expected in an urban area for this form of development. The waste collection area is in the basement, well removed from other developments. Waste vehicles already access Greengate Lane to collect waste, so any additional impact will be minimal.

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

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

Item 2

Precedent set for future access via Greengate Lane

Council's engineer has assessed the potential cumulative impact of access via Greengate Lane to future multi unit developments and considers this to be satisfactory.

Increased flooding to 24 Greengate Lane

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

Compatibility with heritage and landscaped environment of Ku-ring-gai –design, materials, height

The application was referred to Council's Urban Design Consultant, Mr Russell Olsson. Mr Olsson finds that the development Proposal satisfactorily addresses the SEPP 65 design principles and he considers the design to be of an acceptable standard. The fin walls to the balconies have been removed in the amended plans, to provide a more conventional appearance.

Visual impact of bulk and scale, especially in relation to small setback to south

The development is permissible and generally complies with the requirements of the KPSO. The building setback to the south complies with the controls in DCP 55 and provides a very generous southern setback for over half of the development width. It is further noted that Council's Urban Design Consultant, Mr Russell Olsson, has reviewed the proposal and raises no concerns in relation to the scale or bulk of the development.

Overshadowing of private open space of Greengate Rd dwellings

There will be some overshadowing of the private open space areas of the 2(c2) sites on the opposite side of Greengate Lane, namely to 2,4,6,8 and 10 Greengate Road. The majority of the private open spaces of 4 and 6 Greengate Road will receive at least 4 hours of sunlight between 9am and 3pm midwinter and 2, 8 and 10 Greengate Road will receive a minimum of 5 hours of sunlight. The proposal therefore complies with the requirements of DCP 55.

Loss of privacy to 4 Greengate Road

See comments under Amended Plans.

Amended plans dated 30 August 2005

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

1. Cowley Hearne Lawyers (for P Woodhead)

Item 2

2. Stewart & Patricia Cooper, PO Box 694, Gordon
3. Peter & Loretta Woodhead, 8 Greengate Rd, Killara
4. E J O'Donnell, 16 Greengate Rd, Killara
5. M R O'Donnell, 16 Greengate Rd, Killara
6. Janet O'Donnell, 16 Greengate Rd, Killara
7. Greengate Rd Residents Committee
8. T/G Howard & M S O'Dea, 26 Greengate Rd, Killara

There were no objections to the proposed amendments. The submissions in response to the amended plans mainly raised the same issues as previously in regard to access and traffic issues, to context, bulk and scale and solar access issues. These concerns are discussed above. However, the following new issues were also raised:

Non-compliance with objectives of DCP 55 in regard to solar access, ventilation, replenishment of tree canopy, setbacks, deep soil, heritage significance of Greengate Hotel, internal amenity for residents, encouragement of walking and bicycle, context, privacy.

See comments in regard to SEPP 65, KPSO and DCP 55.

Privacy to 9 Bruce Avenue, 2, 4, and 6 Greengate Road, and the proposed townhouses at 657- 661 Pacific Highway.

With development to the density and scale allowed by LEP 194, a degree of privacy loss is inevitable. At low densities, there is a reasonable expectation that a dwelling will retain high levels of privacy but at higher densities privacy impacts are harder to protect and retaining privacy to the same level as low density development is more difficult.

Nevertheless, there is a minimum separation of 13 metres from the southern portion of the subject building to the boundaries of the sites to the south of Greengate Lane. The private open space of each of these sites is quite deep (a minimum of 16 metres) and the separation requirements of DCP 55 in regard to privacy are satisfied. However, the opportunity exists to further reduce the overlooking of these sites by setting back the balustrade of the southern terrace off unit 4.03 and a condition is recommended in this regard (**Condition No. 93**). Combined with the two trees to be retained in the south-eastern corner of the site and a number of tall trees with understorey plantings to be provided to the south of the proposal, the impact on privacy is acceptable.

The amended plans have increased the setback from the proposed townhouses on 657-661 Pacific Highway to approximately 19 metres. The setback includes a mix of large trees and smaller landscaping. Privacy to the townhouses is satisfactory.

The setback of 6 metres to 9 Bruce Avenue complies with the requirements of DCP 55 and provides for landscaping to minimise the impact on privacy from the lower floors. A multi-unit development is also proposed for 9 Bruce Avenue and the combined setback achieves a separation of 12 metres between the buildings. A condition is recommended to set back the balustrade on the terrace on the top floor to minimise overlooking of the existing private open space and the proposed multi-unit development (**Condition No. 92**).

Item 2

Inadequate information in regard to overshadowing from proposed units to the east

A proposal for multi-unit housing to the east has been lodged with Council and is still under assessment. The shadow impacts of that development will be considered in Council's assessment of the application.

The proposed design, materials and colours conflict, not only with the current streetscape, but also with the proposed adjoining multi-unit developments

The proposals to the east and west of the subject site include more conventional facades, earthy colours and pitched roof forms, while the subject proposal includes square shapes, blue/grey shades and an essentially flat roof form. The roof forms facing Greengate Lane are not dissimilar from the proposed roof forms of the adjoining residential flat proposals where they face Greengate Lane. The difference in design/style is most obvious on Bruce Avenue.

However, the design illustration used in the objection for comparison with the other multi-unit developments, is the original proposal with the projecting fins. The amended plans have replaced the fins with metal and glass balustrades, resulting in a more conventional façade, more consistent with the existing and future streetscape. The proposal includes adequate setbacks and deep soil area which will allow for the establishment of landscaping to soften the built form. A condition of consent is also recommended in regard to colours (**Condition No. 91**). In this context, the proposal is considered to respond satisfactorily to the future character of the locality.

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

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

Construction traffic impacts

A traffic management plan will be required for the construction period via a recommended condition of consent (**Condition No. 125**).

Alternative proposals for access and local roads/referral to RTA

Residents' suggestions for traffic lights at the Pacific Highway/ Bruce Avenue intersection, connection of Bruce Avenue through to Cecil Street and blocking of Greengate Lane at the east/west corner have been raised with Council's Technical Services department. Internal discussions on traffic management in the area are currently being undertaken. The proposal does not require referral to the RTA.

Item 2

CONSULTATION - WITHIN COUNCIL

Urban Design Consultant

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

“ Design Review

*The following comments were preliminary recommendations made on 9 August 2005.
These comments relate to:*

- *the building's relationship to the Greengate Hotel*
- *the site layout*
- *landscape design*
- *solar access*

The building is currently 6m from the western boundary and approximately 9m from the eastern boundary. The building is visually prominent when viewed from the rear balcony of the Greengate Hotel. This prominence should be reduced by setting the building back, to be 8.5 to 9m from the western boundary facing Greengate Lane. The whole building should be moved to be 6m from the eastern boundary.

The ground level front yards facing Greengate Lane should be no larger than currently proposed, and the additional 2.5m to 3m should be communal space which is planted with large trees. Currently Crepe Myrtles are proposed along this boundary, which have the advantage of being deciduous to allow winter sunlight access. It is recommended that, if possible, larger deciduous trees are planted along the lane. This will provide a better landscape setting for this frontage when viewed from the Greengate Hotel balcony.

It is also recommended that Apartment 9 on each floor is replanned so that the living room balcony is on the north-western corner of the apartment (without creating privacy problems across the opening to Apartment 1). This re-planning will improve sunlight access to this balcony and living area on each floor.

Design amendments were made and the amended drawings show:

- *the building has been re-positioned so that the setback from the eastern*
- *boundary is 6m and the setback from Greengate Lane is 8.4m*
- *the additional 2.4m of open space has been devoted to communal open space*
- *adjacent to Greengate Lane*
- *the apartments on the western side of the building (Apartment 9 etc) have been*
- *re-planned as recommended.*

It is noted that the balcony sunscreens have been re-designed. The new design is acceptable. The proposed materials and colours are also acceptable.

Item 2

All the recommended changes have been satisfactorily made. Based on SEPP 65 Design Criteria, the DA should be approved in its current form.”

Despite the above comments, the choice of colours emphasizes the aspects of the development that are less sympathetic to the existing and proposed streetscape.

Heritage

Council’s Heritage Officer, Paul Dignam, has commented on the proposal as follows:

“Demolition of existing houses

The site comprises three lots facing Bruce Avenue and one house facing Greengate Lane. The three houses facing Bruce Avenue, Nos 1,3 & 5 are early bungalows c1920 similar and most likely built by one builder as a speculative development, similar to many other areas of Kuring-gai. The 1928 Water Board plan shows three identical houses named “Pembroke”, “Penrhyn” and “Penarth”. As a group they have some heritage significance as a cohesive ‘bungalow group’ but individually they are not significant. The three houses are graded as contributory to the National Trust UCA No 12 – Greengate precinct, but otherwise have not been identified as having any heritage significance.

The house facing the lane, No 6 Greengate lane is a recent house (1994) and of no heritage significance.

I have no objections to demolition of the subject houses but recommend that archival recording is undertaken for all 4 houses. The level of recording is to reflect the properties heritage significance.

Within the vicinity of a heritage item

The development site is adjacent to the Greengate Hotel and near a Federation period house at 663 Pacific Highway on the corner of Bruce Avenue.

The Greengate Hotel is a substantial hotel sited on the corner of the Pacific Highway and Greengate Avenue and has considerable heritage significance (possible State) and landmark value. The subject site is separated from the hotel by a narrow lane. The rear of the hotel can be seen from the lane and from the Pacific Highway. The view from the highway is only possible as the site adjoining the Greengate Hotel is currently vacant. The site has been rezoned for multi-unit development and a development application has been lodged.

Given the guidelines in DCP 55, physical separation of the proposed development from the Greengate Hotel is considered satisfactory. The primary heritage issue is the potential loss of views from the northern terrace area and potential shadowing of the first floor terrace area as the terrace largely depends on solar access and views for its continued success.

Item 2

An inspection of the terrace area was undertaken on 12/8/05. The existing district views are to a distant ridge at the north-east and some limited views to the north-west. It is noted that the views would be different in summer and winter due to the proximity of large oak trees.

There would be some loss of views to the north-east, however the views would not be entirely lost because the lane defines a clear view corridor. The amended design has relocated the western elevation further from the lane which would result in less visual impact on the Greengate Hotel and less reduction in the views enjoyed from the ground and first floor terraces of the hotel.

The architectural design and detail of the proposed building is contemporary and is not considered to have adverse heritage impact on the Greengate Hotel as it will clearly be seen as new development.

The heritage item at 663 Pacific Highway is physically separated from the site and has its main presentation to the corner of Pacific Highway and Bruce Avenue. It is considered that impacts from the subject development on its heritage significance are minimal due to its separation and prominent location on the street corner. It would not affect its immediate setting or curtilage.

UCA

The site is located within the National Trust UCA No 12 – Greengate. The majority of houses in Bruce Avenue are non-contributory. Nos 1, 3, & 5 Bruce Avenue are considered to be contributory to the UCA but their contribution largely depends on their grouping as three relatively intact, modest bungalows. They are not considered to have any significance as individual properties.

It is acknowledged that given the rezoning in Bruce Avenue, future residential flat development will result in a substantial change to the UCA. The Greengate Hotel and Greengate Avenue will largely remain as the focus to the UCA.

I have no objections to demolition of the subject houses provided archival recording is undertaken for all houses on the subject site. The level of recording should relate to the relative significance of the properties (attached condition).

The amended scheme has resulted in greater separation from Greengate Lane which would improve views from the ground and first floor terrace.

Development of this site would not cause unacceptable impacts to the Greengate Hotel, the heritage item at 663 Pacific Highway or the National Trust UCA No 12 – Greengate and is supported.

It is noted that the Greengate Hotel and Greengate Avenue will remain as the focus to the National Trust UCA.”

Item 2

Condition No. 15 is recommended to address the recording of the existing dwellings.

Landscaping

Council's Landscape and Tree Assessment Officer, Geoff Bird, raised concerns in respect of deep soil landscaping on the original and amended plans dated 21 June 2005. This issue has been addressed in the later plans. Mr Bird has commented on the amended proposal (dated 30 August 2005) as follows:

"The site

It is proposed to demolish the existing dwellings and associated structures and construct a five storey, multi unit residential flat building with three levels of basement car parking on the amalgamated site area of 3 960sqm with vehicular access from Greengate Lane. The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and lawn areas. The site frontage is dominated by numerous trees and shrubs of which the most visually significant is tree #14 Eucalyptus cinerea (Argyle Apple). The rear of the site is characterised by a variety of established trees primarily along the southern site boundary, including some exempt/weed species.

Impacts on trees/Trees to be removed/Tree replenishment

The consulting Arborist (Treescan – David Ford) has identified a total of forty one (41) trees as being located on or associated with the site, not including the existing street trees in front of the development site. Of the identified trees, it is proposed to retain five, which includes the most significant on site. Trees nominated for removal are either located within the proposed building footprint, are exempt under Council's TPO or are in poor health, form and condition. Landscape Services raises no objections to the nominated tree removal, subject to adequate tree replenishment being undertaken on site.

The landscape plan proposes an additional twenty four (24) trees capable of attaining a minimum height of 13.0m as part of the development works in addition to the retention of the existing three, resulting in a total of twenty seven trees being accommodated on site to maintain and replenish the tree canopy. As proposed the additional trees will consist of a mix of both native endemic and exotic tree species planted around the site. This exceeds Council's minimum requirement as per DCP55 guidelines and reflects the existing landscape character of the immediate area. No objection is raised to the proposed tree planting for the site.

Deep soil areas

Previous deep soil landscape area concerns have been addressed. Landscape Services is in agreement with the areas included as deep soil.

Setbacks

Landscape services raises no objection to the proposed setbacks as there is adequate space and deep soil area for the establishment of tall trees and soft landscape works to maintain and enhance the landscape amenity of the site and immediate area.

Item 2

Landscape plan

Subject to some minor changes primarily for the location of some tree planting, which can be conditioned, the submitted landscape plan can be supported.

Drainage plan

Overall no objections are raised to the proposed drainage works for the site as consideration has been given to existing trees and landscape treatments to minimise adverse impacts. However, the location of the proposed 'diverted sewer' and the created stormwater easement limits the available area adjacent to the Greengate Lane corner for the establishment of tall trees and screen planting. This has particular relevance to the heritage listed Greengate Hotel, and visual impacts. To minimise this impact, it is preferred that the sewer and easement be located as close as possible to the building footprint beneath proposed grassed areas/small shrub planting to maximise deep soil landscape area adjacent to the site boundary for the establishment of 'tall' canopy trees as required by LEP194."

Subject to conditions Landscape Services can support the application (**refer Condition Nos 63-73, 103 -104, 115-123, 130-131**).

Engineering

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

"Summary

The application is supported with conditions.

Subdivision

Strata subdivision is proposed under this application, so subdivision conditions will be recommended.

So that the building is not constructed across lot boundaries, the Applicant will be required to consolidate all the Torrens lots prior to issue of the Construction Certificate.

Stormwater management

The stormwater management plans submitted include on site detention, retention and re-use in accordance with the requirements of Council's Water Management DCP47 :

- On site **retention** of stormwater for domestic re-use within the buildings for toilet, cold laundry and landscape irrigation (total volume of 223m³).*
- On-site **detention** of 49 m³*

Item 2

- *Discharging of site runoff to an existing street drainage pit in Greengate Lane.*

Under the May 2005 amendment to DCP 47, these volumes could be adjusted to 61.5m³ of detention storage and 42m³ of retention storage. The re-use of retained roofwater for toilet flushing, clothes washing and irrigation is required under DCP 47 for this development since it was lodged prior to 1 October, when BASIX came into force for multi-unit developments.

Traffic generation

Vehicular access to this development is proposed to be from Greengate Lane. At present the lane is sealed, approximately 4 metres wide, with no kerb and gutter on either side. The road reserve varies in width from 6 metres to 8.2 metres. Access to the rear of Greengate Road properties is also gained from the lane.

Although the traffic report predicted that the traffic generated by the development would not cause Greengate Lane to experience traffic volumes above the RTA's environmental capacity of 100 vehicles per hour for accessways, this report did not take into account the other development sites nearby, 657 Pacific Highway and 9-23 Bruce Avenue. Residents commissioned their own traffic report which found that the lane would exceed the environmental capacity following development of all sites.

Council's Strategic Traffic Engineer has carried out an internal traffic study. The study considered alternatives for traffic flow in the area. AMCORD guidelines indicate that for a local road carrying 30 to 100 vehicles per hour, a minimum road reserve of 13 metres and carriageway width of 5 to 5.5 metres is required. Therefore for two way flow to be maintained in Greengate Lane, the road reserve would have to be widened to 13 metres.

An alternative would be one way conditions, with minor widening/ formalisation of the carriageway, similar to Tryon Lane. It is understood that the process of implementing the latter is underway. The recommended conditions allow for the developer to liaise with Council's Traffic Section regarding the desirable width for construction of Greengate Lane and timing of the various stages in the process.

Vehicle access and accommodation arrangements

The proposed development comprises 42 units, of which 32 are to be 3 bedroom. Therefore under LEP 194, 74 resident and 11 visitor parking spaces are required. The plans submitted show 79 resident spaces and 13 visitor spaces and therefore comply.

The dimensions of the spaces and of the aisles and ramps comply with AS2890.1:2004, as do the driveway gradients.

Waste collection is to be internal, on the upper basement level, and there is sufficient space for the small waste collection vehicle to enter and leave the site in a forward direction.

Item 2

Construction management

Based on the scale of works and expected construction vehicle movements, a detailed construction traffic management plan must be submitted for review by Council Engineers prior to the commencement of any works on site. During the construction period it is anticipated that traffic and pedestrian control will be particularly important at each entry to Greengate Lane from Bruce Avenue, and at the bend. Consideration may be given to using an existing Bruce Avenue driveway for site access for some of the construction stage. A works zone could be established along the Bruce Avenue frontage. The procedure for this is included in the recommended engineering conditions.

Impacts on Council infrastructure

The developer will be required to construct new road pavement and new kerb and gutter along the Greengate Lane frontage of the site, and new footpath along the Bruce Avenue frontage. Detailed design drawings for these works will be assessed by Council's Technical Services section for approval under the Roads Act. No final certificate would be issued until the works are completed to the satisfaction of Council.

EnergyAustralia has advised that a substation will not be required for this development.

Geotechnical investigation

The applicant has submitted a Report on Preliminary Geotechnical Investigation (Davies Geotechnical report ref: R/05-037.C, dated 11 May 2005.)

Three boreholes were drilled and two encountered residual clay over shale. The other was drilled through a weathered volcanic material, inferred to be a dyke. The extent of the dyke was not able to be determined from one borehole, however the geotechnical report states "Its presence does not affect the geotechnical feasibility of the project but the extent of the inferred dyke will impact on detailed design and construction management." A condition is recommended that the geotechnical engineer endorse the design for excavation support prior to commencement of bulk excavation works at the site.

Excavation of the clays and weathered shale and dyke material is not expected to be difficult, however stronger shale was encountered above the final basement level, which may require more effort to remove. Vibration monitoring and dilapidation surveys of neighbouring buildings and infrastructure will be required. These are included in the recommended conditions.

Support of the excavated faces will depend on the materials encountered and the space available for batters within the site, and temporary rock anchors may be required, possibly extending into the road reserve and/or the neighbouring property. Approval from the appropriate owner will be required, and conditions are recommended for obtaining Council's approval for such anchors. Regular inspections of the excavated faces by the geotechnical engineer are recommended.

Item 2

The report contains an assessment of groundwater conditions, and a preliminary finding that “a significant or adverse impact on adjoining land, due either to the construction or long-term development, through the changes to groundwater “levels” on the subject site that might occur, is not likely.” However the engineer recommends further modelling and analysis to confirm this. The completion of this work, prior to commencement of excavation works on site, is included in the recommended engineering conditions.”

Condition Nos 74 -88, 105-111, 124 -128, 132-143 as recommended, are included in this report. Further discussion with Council’s Engineer have also been held in regard to sight lines and additional conditions are recommended in this regard (**Condition Nos 62 and 96**).

CONSULTATION - OUTSIDE COUNCIL

Energy Australia

The applicant has provided a letter from Energy Australia which includes the following comments:

*“I refer to the Company’s correspondence of 11 April 2005 regarding the provision of electricity supply to the residential development at the above address consisting of 42 mixed size units. I confirm that it will **not** be necessary to install a substation on the premises. Fortunately a development is occurring on the Pacific Highway Corner of Bruce Avenue where a substation is to be established. It will be necessary to install a cable from this proposed substation to a position to suit the above development and provide the required electrical supply. A period of approximately 8-12 weeks from agreement and acceptance of the works contract is usually required to program and complete the works. It should be noted that depending on the timing of both projects this cable could be supplied from the existing substation in Bruce Avenue.”*

STATUTORY PROVISIONS

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

Context:

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

The proposal responds to the context through a well modulated structure which uses a variety of materials and, through the large setbacks which provide adequate space for the planting of tall trees consistent with the landscaped character that currently exists, it provides for future amenity to residents of the site and the surrounding area. The large western setback also ensures that the setting of the heritage sites in the vicinity is respected.

Item 2

Scale:

The proposal complies with the majority of building envelope requirements of LEP 194 that apply to the site, including perimeter ceiling height, deep soil landscaping and site coverage. The perceived scale of the development site is reduced by the staggered setbacks, the incorporation of extensive landscaping areas, the stepping down of the building modules and the deep modulation at the entries from the Bruce Avenue and Greengate Lane (west). The slope of the land from Bruce Avenue reduces the apparent height of the structure, while the large common open space area at the rear aids in the transition with the 2(c2) zones across Greengate Lane.

Built form:

The building is appropriately articulated and modulated to reduce its apparent visual bulk, with deep articulation at the entries which bring landscaped elements deep into the overall footprint and the L-shape, resulting in 3 building modules which step down the site. The bulk is further broken up by the recessive 5th storey, recessed and projecting balconies, wall articulation, broken roof forms, sun shades, detail on railings and the use of a variety of materials namely; concrete blocks, brick, cement render, steel and timber.

Density:

The floor space ratio of 1.27:1 is below the DCP 55 maximum of 1.3 :1 and the number of units reflects the desired future character of the area.

Resource, energy and water efficiency:

Over 65% of units are cross-ventilated, over 70% receive more than 3 hours of solar access between 9 am and 3 pm to living areas or balconies at the winter solstice. Over 90% achieve a 4.5 star NatHERS rating, with all units achieving a minimum of 3.5 stars.

Over 50% of the site is allocated to deep soil landscaping, and adequate water retention and re-use systems are proposed. It is proposed to use plantation timbers.

Landscape:

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

Amenity:

The development provides for a mix of one to three bedroom units. The dwelling layout, design and orientation ensure adequate levels of acoustic and visual privacy, private open space areas and

Item 2

access to natural light. The design of the common areas provides for quality areas of recreational space within the site.

An accessibility report has been provided which demonstrates that the proposal provides a high degree of adaptability and flexibility in terms of access for people with disabilities. All units are “visitable”, 10% of units are designated as “adaptable”, while a further 12 units also demonstrate a reasonable degree of adaptability in terms of room sizes and general layout. The pool and barbecue areas are also accessible and there is ample space around the pool to allow for the future provision of a pool hoist.

Safety and security:

The proposal is well designed in relation to external safety and security, allowing passive surveillance of common open space areas. The internal corridors have a number of corners, however, they are of adequate width and are satisfactory.

The proposal provides for good pedestrian access within the site for users of varying mobility. A condition is recommended to require construction of a footpath for the Bruce Avenue frontage of the development (**Condition No. 106**). Vehicular access is via Greengate Lane. Council’s Development Engineer has stated that, while the environmental capacity of the lane and of the nearby road network is adequate for the proposed development in isolation, the environmental capacity would be exceeded following the re-development of all sites in the locality that have been rezoned to 2(d3). Council’s Strategic Traffic Engineer has recommended that one-way thoroughfare for Greengate Lane and a portion of Bruce Avenue be sought to improve safety in this area. This would allow for either shared vehicle/pedestrian use of the lane or for a separate footpath. This would enhance pedestrian access to existing footpaths leading to Killara station. It is recommended that Council request the Traffic Committee to further refine the one-way proposal and seek RTA support for this change.

Social dimensions:

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

Aesthetics:

The external appearance and composition of building elements, textures and materials satisfactorily reflects the use, internal design and structure of the development. The replacement of some of the cooler colours with earthy colours will ensure that the development is more sympathetic to the existing and desired future character of the locality. A condition is recommended in this regard (**Condition No. 91**).

State Environmental Planning Policy No. 55 – Remediation of Land

Item 2

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

Ku-ring-gai Planning Scheme Ordinance (KPSO)

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 1200m ²	3960 m ²	YES
Deep landscaping (min): 50%	50%	YES
Street frontage (min): 23m	60.96m Bruce Ave 60.96m to southern section Greengate Lane 64.3m to western section Greengate Lane	YES
Number of storeys (max): 5	5	YES
Site coverage (max): 35%	34.7%	YES
Top floor area (max): 60% of level below	59.6%	YES
Storeys and ceiling height (max): 4 and 13.4m	5 (Block B) & 13.18m	NO (SEPP 1)
Car parking spaces (min):		
• 11 (visitors)	12	YES
• 74 (residents)	79	YES
• 85 (total)	91	YES
Manageable housing (min): 10%	10% (5 units)	YES
Lift access: required if greater than three storeys		YES
Strata subdivision	Permissible with consent	YES

Storeys and ceiling height (cl.25I(8)):

The proposal meets the standard for perimeter ceiling height, varying between 10 and 13.18 metres. However, the basement area exceeds 1.2 metres above natural ground level and therefore, under Clause 25I(9), technically results in 5 storeys at the perimeter. The non-compliance affects a small area of 9.3 square metres on the south-eastern corner near the eastern boundary, in the area above the stormwater retention tank. This area is occupied on the third floor by a portion of the covered balcony and less than 2.5 square metres of living area of Unit 3.06. The non-compliance is 6 metres from the eastern boundary, over 30 metres from the southern boundary with Greengate Lane, and over 28 metres from the front boundary (Bruce Avenue).

A SEPP 1 objection seeking a variation to a development standard of the Ku-ring-gai Planning Scheme Ordinance (KPSO) has been prepared and lodged with the application. SEPP 1 provides flexibility to Council's development standards and it enables Council to vary such a standard where strict compliance with that standard would be unnecessary, unreasonable or tend to hinder the objectives of the Environmental Planning & Assessment Act, 1979.

Item 2

Where an applicant wishes to vary a development standard, the application must be accompanied by a well founded, written objection which demonstrates that compliance with the particular standard:

- a. is consistent with the objectives of the relevant development standard;
- b. strict compliance would hinder obtainment of the objectives of SEPP1 or the objectives specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act and
- c. is unreasonable or unnecessary in the circumstances of the case.

The SEPP 1 objection submitted by the applicant describes the underlying objectives of the standard for the number of storeys in Clause 25I(8) as follows:

“The underlying object or purpose of these provisions is considered to ensure that the building design is of a high quality and that there is a level of control provided in respect of building heights. In this regard it is considered that the provisions will ensure that buildings have consistent height and that buildings are designed having regard to the characteristic and topography of a site and will ensure that a building does not dominate its surroundings. The controls also ensure that there is an appropriate cartilage around the perimeter of a building that is capable of sustaining vegetation of a scale which is capable of softening the proposed development.”

In regard to the objectives for the characteristics and topography of the site, issues of overshadowing and dominance in the streetscape and from neighbouring dwellings as a result of the additional storey are relevant. The following summary of the objection provides justification for the non-compliance:

The proposal meets the objects of section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act *“as it would unreasonably restrict the development of the site in circumstances where the proposed variation is considered minor and does not result in any detrimental impacts”*. The circumstances are addressed in the following section.

Compliance with the standard is unreasonable or unnecessary in the circumstances of the case:

- The non-compliance is minor, in that the area of basement that results in an additional floor is exceeds the standard to a maximum of 350mm, for a small triangular section of 9 m², which equates to 0.6% of the basement area;
- The breach occurs where a rainwater tank is proposed. A substantial benefit will be derived from water saved in the retention tank;
- The non-compliance is at the rear of the building;
- The section of the building has adequate separation with a 6 metre setback from the building to the boundary;
- This setback is dedicated to landscaping and supports a variety of screening and tree species, which will largely screen this section of the building from view;

Item 2

- The building otherwise complies with the height control of 13.4 metres at the perimeter ceiling height, as the building steps down the site by 1.5 metres from the highest portion of the building;
- No overshadowing results from the additional floor.

While it is not agreed that the relevant setback is entirely dedicated to landscaping, as the location of the private open space area for unit G.06 limits the size of tree planting in this location, a condition of consent (**Condition No. 64**) is recommended to enhance the landscaping generally in this setback. This condition will reduce the impact of the additional height. It is agreed that the non-compliance is minor and will not result in any adverse impacts, especially given that the perimeter ceiling height control is not breached.

The SEPP 1 Objection has demonstrated that the underlying objective of the standard has been satisfied and that compliance with standard in regard to the number of storeys would tend to hinder the attainment of the objects specified in Section 5(a)(i) and (iii) of the Act. The SEPP 1 objection has shown that, in the circumstances, compliance with the development standard is unreasonable and unnecessary. The SEPP 1 Objection has adequately addresses the requisite aspects of the Policy, is well founded and in this instance the development standard should be allowed to be varied.

Zone interface (cl.25L):

It is noted that the site is adjacent only to 2(d3) sites and roadways. However, Greengate Lane is very narrow and it is therefore appropriate to consider the setback to the boundaries of the properties to the south of Greengate Lane, which are zoned 2(c2) and 2(d) and to the Greengate Hotel, zoned 3(a)-(A2). The development is more than 9 metres from these boundaries and therefore complies.

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

A heritage impact statement has been provided. Council's heritage advisor, Paul Dignam, has assessed the proposal in light of the statement and considers the demolition of the contributory items is acceptable given the rezoning of the land. The amended plans have increased the setback to the western boundary to 8.4 metres to maintain some of the view corridor from the Greengate Hotel. Given the setbacks, proposed landscaping and modern design of the development, Council's Heritage Advisor is satisfied that the proposal will not result in significant impacts on the heritage settings or significance of the Greengate Hotel or No. 663 Pacific Highway Killara.

Residential zone objectives and impact on heritage:

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

Item 2

POLICY PROVISIONS

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		
Development adjacent to a heritage item:	Site within vicinity of, but not adjacent to heritage items	
• 10m setback (1 st & 2 nd storeys)	>30m	YES
• 15m setback (3 rd & 4 th storeys)	>30m	YES
Part 4.1 Landscape design:		
Deep soil landscaping (min)		
• 150m ² per 1000m ² of site area = 594m ²	>630m ² to south and east	YES
No. of tall trees required (min): 14 trees	30 trees	YES
Part 4.2 Density:		
Building footprint (max):		
• 35% of total site area	34.7%	YES
Floor space ratio (max):		
• 1.3:1	1.27:1	YES
Part 4.3 Setbacks:		
Street boundary setback (min):		
• 13-15 metres to Bruce Ave	13m to terraces and basement, 14.8-15m to primary building line Balconies at 13.5m to 13.8m	YES
• (<40% of the zone occupied by building footprint)	40%	YES
• 6 metres to Greengate Lane	To south: 6.5m – 29.7m to primary building line To west: 6m	YES
Side boundary setback (min):		
• 6m	9m -33m	YES

Item 2

COMPLIANCE TABLE		
Development control	Proposed	Complies
Setback of ground floor courtyards to street boundary (min):		
• 11m Bruce Ave	10.1m to 12.4m	NO
% of total area of front setback occupied by private courtyards (max):		
• 15%	19.6%	NO
Part 4.4 Built form and articulation:		
Façade articulation:		
• Wall plane depth >600mm	>600mm	YES
• Wall plane area <81m ²	>81m ² (83m ²) (east elevation)	NO
Built form:		
• Building width < 36m	46m (Bruce Ave) 43.6m to Greengate Lne (west)	NO
• Balcony projection < 1.2m	1.4m to Bruce Ave (Units .02 and .03 on 3 levels)	NO
Part 4.5 Residential amenity		
Solar access:		
• >70% of units receive 3+ hours direct sunlight in winter solstice	71%	YES
• >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice	>50%	YES
• <15% of the total units are single aspect with a western orientation	12%	YES
• Retains 3 hours sunlight to adjoining 2(c1) or 2(c2) habitable rooms and outdoor areas		YES
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:		

Item 2

COMPLIANCE TABLE		
Development control	Proposed	Complies
Storeys 1 to 4		
<ul style="list-style-type: none"> 12m b/w habitable rooms 	7.5m (Gr Floor), 6.9 (Floors 1-3) to windows of no 9 Bruce Ave to the east	NO
<ul style="list-style-type: none"> 9m b/w habitable and non-habitable rooms 	Buildings minimum 24 m from dwellings to the south and 19m to proposed townhouses to the east. >9m	YES
<ul style="list-style-type: none"> 6m b/w non-habitable rooms 	>6m	YES
5th Storey		
<ul style="list-style-type: none"> 18m b/w habitable rooms 	6.9m from balcony to window of 9 Bruce Ave (existing dwelling) 13.2m from balcony to balcony of proposed multi-unit development at 9 Bruce Ave	NO
<ul style="list-style-type: none"> 13m b/w habitable and non-habitable rooms 	6.9m from balcony to window of 9 Bruce Ave (existing dwelling)	NO
<ul style="list-style-type: none"> 9m b/w non-habitable rooms 	>9m	YES
Internal amenity:		
<ul style="list-style-type: none"> Habitable rooms have a minimum floor to ceiling height of 2.7m 	2.6m (scaled)	NO
<ul style="list-style-type: none"> Non-habitable rooms have a minimum floor to ceiling height of 2.4m 	2.6m (scaled)	YES
<ul style="list-style-type: none"> 1-2 bedroom units have a minimum plan dimension of 3m in all bedroom 	Min 3m	YES
<ul style="list-style-type: none"> 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms 	Min 3m	YES
<ul style="list-style-type: none"> Single corridors: <ul style="list-style-type: none"> - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies 	9-10 units connected by corridors on 4 levels >1.5m >1.8m	NO YES YES

Item 2

COMPLIANCE TABLE		
Development control	Proposed	Complies
Outdoor living: <ul style="list-style-type: none"> Ground floor apartments have a terrace or private courtyard greater than 25m² in area Balcony sizes: <ul style="list-style-type: none"> 10m² – 1 bedroom unit 12m² – 2 bedroom unit 15m² – 3 bedroom unit NB. At least one space >10m ²	<p>>25m²</p> <p>11.9m²</p> <p>>12m²</p> <p>>15m²</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
<ul style="list-style-type: none"> Primary outdoor space has a minimum dimension of 2.4m 	1.8m-2.1m to units 1.10 and 2.10. All other units 2.4 +	NO
Part 4.7 Social dimensions:		
Visitable units (min): <ul style="list-style-type: none"> 70% 	100%	YES
Housing mix: <ul style="list-style-type: none"> Mix of sizes and types 	Mix of 1, 2 and 3 bedroom units	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency: <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation single aspect units are to have a maximum depth of 10m 25% of kitchens are to have an external wall for natural ventilation and light >90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating 	<p>>65%</p> <p>>10m (4 single aspect units to max 10.5m deep)</p> <p>>25%</p> <p>4.5 star rating = 93%</p> <p>3.5 star rating = 7%</p>	<p>YES</p> <p>NO</p> <p>YES</p> <p>YES</p> <p>YES</p>
Part 5 Parking and vehicular access:		
Car parking spaces (min): <ul style="list-style-type: none"> 11 (visitors) 74 (residents) 85 (total) 	<p>12</p> <p>79</p> <p>91</p>	<p>YES</p> <p>YES</p> <p>YES</p>

Item 2

Part 4.3 Setbacks:

The front setback complies with the setback requirements for a large lot but not with the courtyard footprint requirements. The topography of the site results in the courtyards in the Bruce Avenue setback being located below the level of the street, resulting in minimal visual impact on the streetscape. Further, the setback is provided with extensive landscaping, including a number of large trees. In the circumstances, the non-compliance is acceptable.

Part 4.4 Built form and articulation:

The proposal is contextually responsive to the landscaped characteristics of the locality. While the front façade, at 46 metres to Bruce Avenue and 43.6 metres to Greengate Lane (west), exceeds the building length provision of the DCP, an articulation of 8.8 metres deep and 2.9 metres wide at the main entry breaks up the building into 2 modules to Bruce Avenue. The apparent separation of the buildings is supported by the stepping down of the modules and by the extensive use of glass above the entry to delineate the 2 modules.

To Greengate Lane, there is a secondary entry and a change in height, that also assists in breaking up the building into 2 modules. The impact of the length of the façade to this boundary is further reduced by the setback of 8.4 metres and landscaping to the street.

The development is articulated in its design to respond to internal environments with the use of sun shading devices, recessed and projecting balconies and the varied third floor balcony roof elements. The minor non-compliance with the maximum balcony projection depth is behind the 13 metres setback zone and ensures useable private open spaces are provided for the smaller units.

Picket fencing to an unspecified height is shown on the landscape plans. Picket fencing is acceptable within the streetscape, however, an additional condition is recommended to limit the height to 1 metre, except at the blind corner on Greengate Lane where height will be limited to 300mm (**Condition No. 62**).

Part 4.5 Residential amenity:

While there are no adjoining single residential sites, there are a number of 2(c2) sites located across Greengate Lane to the south which should be considered in relation to the maintenance of solar access. These sites retain a minimum of 3 hours of sunlight to main living areas and to substantial portions of their rear yards.

The two storey units receive virtually no direct sunlight as a result of the configuration of the site. A number of units receive between 1 hour and 2 hours of sunlight. However, as a result of amendments to the plans, including the removal of the fins, over 70% of the units receive more than 3 hours of sunlight as required by the DCP.

Corridors on 4 levels connect 9-10 units, however, access is provided by choice of 2 lifts and 2 sets of stairs from 3 ground floor entry points. The corridors are lit by skylights and large areas of windows to maximise daylight access to these areas.

Item 2

The variation from the 12 metre provision between habitable rooms is to the existing single storey dwelling at No 9 Bruce Avenue, which is situated only 900mm from the common boundary. The windows are generally small, and living areas are towards the rear rather than the side boundary. No objection has been received from the owners of the likely affected site. The site is zoned 2(d3) and an application has been lodged for residential flat development on the site. The side boundary setback of 6 metres required under the DCP and as proposed in both applications will ensure the 12 metre provision is met. The 6 metres setback allows for landscaping to minimise the impact on visual privacy. A condition of consent will require improved landscaping in this setback (**Condition No. 64**).

The top floor family room of the proposal is well set back from the terrace and the viewing angle from the window towards the neighbouring site will not allow overlooking of the existing dwelling or private open space. The proposed residential flat building at 9 Bruce Avenue also has a top storey setback and the separation distance between windows is compliant.

The top floor terrace is only 6.9 metres from the existing dwelling at 9 Bruce Avenue and has the potential to allow overlooking of the existing private open space area at the rear of No. 9 Bruce Avenue. The terrace is 13.2 metres from the top terrace of the proposed multi unit development at No. 9 Bruce Avenue. This terrace would be approximately 3 metres lower than the top floor of the subject site. To minimise the impact on privacy of both the existing and future residents of 9 Bruce Avenue, a condition is recommended to set the balustrade back one and a half metres from the main building line to the east (**Condition No. 92**).

While the separation distances to the sites zoned 2(c2) to the south of Greengate Lane comply with the requirements of the DCP, the terrace to the south off unit 4.03 will allow overlooking of 2 and 4 Greengate Lane. To minimise the impact on privacy to these sites, a condition is recommended to reduce the trafficable depth of this terrace by approximately 1.5 metres (**Condition No. 93**).

The ceiling heights are shown as 2.6 metres high. The applicant has provided details to demonstrate that this is a scaling error, and 2.7 metre ceiling heights can be provided. A condition is recommended imposed in this regard (**Condition No. 94**).

The useable depth of the balconies from the living area of the two storey units varies between 1.8 and 2.1 metres. This complies with the requirements of the Residential Flat Code in that a portion to 2 metres is provided to allow for a table and chairs. In addition, both units have a second private open space area. Unit 2.10 has a balcony off the main bedroom and the ground floor unit has a large terrace with a paved area to 2.4 metres wide.

The units on the south-east corner of the development have solid walls towards the Greengate Hotel and the terraces to units numbered .08 are protected by the walls of a bedroom, reducing the overlooking and noise impacts from the hotel. The south-western corner is proposed to be planted with very large trees and understorey vegetation to further minimise any visual privacy impact. The main common open space area is somewhat protected by the L-shape of the structure from overlooking and noise impacts from the hotel.

Item 2

Part 4.6 Safety and security:

The proposal provides entries from all street frontages, and opportunities for passive surveillance from windows and terraces to all common open space areas and to the street. A condition is recommended in regard to lighting (**Condition No. 95**).

Part 4.8 Resource, energy and water efficiency:

The units numbered .09 to the west, have private open space areas with a partial secondary aspect, however, they are essentially single aspect dwellings. The overall depth does not comply with the provisions of the DCP, however, the depth of the units in the living areas is only 7 metres and complies.

The units either comply with or exceed the requirements for energy efficiency. Minimum insulation requirements will be conditioned (**Condition No. 90**). Plantation timbers are proposed to be used in the development and conditions are recommended in this regard (**Condition No. 5**). A waste management plan has been supplied in accordance with DCP 40.

Stormwater will be collected and used for irrigation and car washing in accordance with DCP 47.

Part 5 Parking and vehicular access:

Parking and vehicular access is provided via Greengate Lane, reducing the dominance of car parking structures from the street. Access is provided for waste vehicles. Vehicular and bicycle parking layout and provision meets the requirements of the DCP. Pedestrian access is clearly defined and separated from vehicular access.

Part 6 Isolated sites:

The proposal does not create any isolated sites.

Residential Flat Design Code

Matters for assessment under the Residential Flat Design Code have been taken into account in the assessment of this application against SEPP 65 and DCP 55.

Development Control Plan 31 – Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against DCP 55.

Development Control Plan 40 – Construction and Demolition Waste Management

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against DCP 55.

Item 2

Development Control Plan No. 43 – Car Parking

Matters for assessment under DCP 43 have been taken into account in the assessment of this application against DCP 55.

Development Control Plan 47 – Water Management

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

Building Code of Australia

A report verifying that the proposal can meet the requirements of the Building Code of Australia has been provided.

Section 94 Plan

The development attracts a Section 94 contribution of \$761,401.80, which is required to be paid by **Condition No. 102**.

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

4 small, 4 medium, 32 large, 2 very large dwellings - 5 existing dwellings = \$761,401.80

Likely Impacts

All likely impacts have been addressed elsewhere in this report.

Suitability of the Site

There are no site or locality constraints which would preclude the proposed development.

Any Submissions

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

Council is advised that **Conditions 62, 91-3 and 106** are recommended to address the concerns of the objectors.

Public Interest

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

Item 2

Any other Relevant Matters Considerations Not Already Addressed

There are no other matters for assessment.

CONCLUSION

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

RECOMMENDATION

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

THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to 25I(8) (Number of storeys excluding top storey) of the Ku-ring-gai Planning Scheme Ordinance is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the additional storey will not result in unacceptable impacts on solar access or landscape character and will achieve the objectives of the height standard.

AND

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to DA 514/05 is consistent with the aims of the Policy, grant development consent to DA 514/05 for demolition, construction of residential flat building and strata subdivision on land at 1-7 Bruce Ave, 6 Greengate Lane Killara, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans numbered Job No. 0418 Sheets DA01B, DA02B, dated 30 August 2005, DA03C dated 5 October 2005, DA04D, dated 5 October 2005, DA05C, DA06C, DA07C, DA08C, DA09D, DA10C, DA11C, DA21C dated 26 September 2005, drawn by Fortey & Grant Architecture, and Draft Strata Plan, Sheets 1-5, undated and lodged with Council on 8 & 27 September and 5 October 2005 endorsed with Council's approval stamp, except where amended by the following conditions:
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.

Item 2

4. The swimming pool is to have a maximum depth of 2 metres.
5. Where timber is specified, plantation timbers are to be used in the development.
6. To conserve water, the following shall be installed in the bathrooms and toilets:
 - a. maximum 6/3 litre dual flush cisterns;
 - b. shower heads with reduced water flow devices.
7. Energy efficient hot water systems which have a 4 star rating or greater shall be employed.
8. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
9. 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.
10. 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.
11. 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.
12. For safety purposes, depth markers shall be provided at both ends of the pool.
13. 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.
14. All filtration equipment shall be located in the position as shown on plan, unless as varied by this consent. Where the filtration and electrical equipment is located near a boundary, such equipment shall be positioned not closer than 150mm from the boundary fencing, if any, and electrical conduits and fittings or circulation pipes shall not be attached to any part of the fencing. Filtration or other equipment shall not be installed in the area of the side boundary setback of the dwelling or outbuilding unless that side boundary setback is greater than 1500mm. For the purpose of residential amenity, the filtration motor pump unit shall be

Item 2

housed in a sound attenuating enclosure and located where indicated on the approved plans or as varied by this consent.

15. A balustrade shall be provided where the pool concourse stands more than 1.0 metre above the finished ground level.
16. 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.
17. To ensure structural stability wherever the soil conditions so require, a retaining wall or other approved method of preventing the movement of soil shall be provided and adequate provision shall be made for drainage.
18. The swimming pool is to be made safe during construction by the erection of temporary safety fence to the satisfaction of the Principal Certifying Authority.
19. For the purpose of residential amenity, details of proposed soundproof enclosure design to house all spa pumping units shall be prepared by a practising acoustical engineer and shall be submitted to the Principal Certifying Authority for approval. Noise levels are not to exceed 5dB(A) at the boundaries of the site.
20. 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.
21. 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.
22. 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.

23. 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

Item 2

site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.

24. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
25. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
26. 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.
27. 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.
28. 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.

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

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

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

Item 2

30. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
31. 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.
32. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.
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 the works.
34. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
35. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
36. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
37. 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.
38. 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.

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

Item 2

40. 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.
41. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
42. 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.
43. 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.
44. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
45. 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.
46. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
47. Fire hoses are to be maintained on site during the course of demolition.
48. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
49. 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.
50. 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 2

51. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- stating that unauthorised entry to the work site is prohibited, and
 - showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- building work carried out inside an existing building, or
 - building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
52. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
53. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.
54. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
55. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
56. To prevent pollution, any areas cleared of vegetation where there is a flowpath greater than 12.0 metres in length shall have a properly constructed silt fence erected to intercept runoff.
57. To prevent pollution, all disturbed areas which are not to be built upon or otherwise developed within 14 days shall be stabilised with mulch, woodchip or other rehabilitation methods to provide permanent protection from soil erosion.
58. Topsoil shall be stripped from areas to be developed and stock-piled within the site. Stock-piled topsoil on the site shall be located outside drainage lines and be protected from run-on water by suitably positioned diversion banks. Where the period of storage will exceed 14 days stock-piles are to be sprayed with an appropriate emulsion solution or seeded to minimise particle movement.
59. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner/s which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.
60. All areas of common property, including visitor car parking spaces and on-site stormwater detention shall be included on the final plans of subdivision.
61. Your attention is directed to the operation of the Commonwealth Disability Discrimination Act 1992, which may impose greater obligations on providing access to disabled persons other than compliance with the Building Code of Australia. You are advised to seek advice

Item 2

from the Human Rights and Equal Opportunity Commission (phone (02) 9284 9600) in respect of your application.

62. To maintain the established streetscape and general appearance, the overall height of the fence to street frontages is not to exceed 1 metre in height, except for the corner of Greengate Lane (west) and Greengate Lane (south), where the fence is not to exceed 600mm in height to provide adequate sight lines.
63. 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.
64. Landscape works shall be carried out in accordance with Landscape Drawing No LP.01/B Rev C Sheets 1-4 prepared by Botanica and dated 06/08/05 submitted with the Development Application. The landscape works shall be completed prior to issue of the Occupation Certificate and be maintained in a satisfactory condition at all times, except as amended by the following;
 - The proposed planting of two *Hymenosporum flavum* (Native frangipani) and one *Elaeocarpus reticulatus* (Blueberry Ash) adjacent to the eastern side of Unit G.05 are to be deleted and replaced with two *Syncarpia glomulifera* (Turpentine) spaced a minimum of 6.0m apart and located no closer than 5.0m from the wall of the units.
 - The proposed planting of one *Elaeocarpus reticulatus* (Blueberry Ash) to the north east of Unit G.05 is to be deleted and replaced with a deciduous tree species that can attain a minimum height of 13.0m to be in scale with the development.
 - The proposed understorey planting at the south west corner of the site is to incorporate only species that attain a maximum height of 800mm, to improve sight lines at the corner.
65. REMOVAL of the following tree/s from Council's nature strip shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.

Tree/Location

Acer negundo (Box Elder)
Bruce Ave nature strip

Jacaranda mimosifolia (Jacaranda) x 3
Bruce Ave nature strip

66. 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

67. 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
#5 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to eastern (side) site boundary	6.0m
#6 <i>Camellia japonica</i> (Japanese Camellia) Adjacent to eastern site boundary in neighbouring property	4.0m
#7 <i>Macadamia tetraphylla</i> (Macadamia) Adjacent to southern/Greengate Lane site boundary	4.0m
#14 <i>Eucalyptus cinerea</i> (Argyle Apple) Adjacent to northern/Bruce Ave site boundary	6.0m
#37 <i>Washingtonia filifera</i> (Cotton Palm) Adjacent to southern/Greengate Lane site boundary	3.0m
#40 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern/Greengate lane site boundary	5.0m

68. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the principal certifying authority shall be required at quarterly/three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority with a copy to Council with the Occupation Certificate.
69. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug:

Tree/Location	Radius From Trunk
#5 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to eastern (side) site boundary	6.0m
#7 <i>Macadamia tetraphylla</i> (Macadamia) Adjacent to southern/Greengate Lane site boundary	4.0m
#14 <i>Eucalyptus cinerea</i> (Argyle Apple) Adjacent to northern/Bruce Ave site boundary	6.0m
#37 <i>Washingtonia filifera</i> (Cotton Palm) Adjacent to southern/Greengate Lane site boundary	3.0m

Item 2

#40 *Jacaranda mimosifolia* (Jacaranda) 5.0m
Adjacent to southern/Greengate lane site boundary

70. 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.
71. The following tree species shall be planted, at no cost to Council, in the nature strip as an evenly spaced avenue planting, fronting the property along Bruce Ave. The tree/s used shall be 45 litre container size specimen/s:

Tree Species

Jacaranda mimosifolia (Jacaranda) x 10

72. Following removal of the *Acer negundo* (Box Elder) and *Jacaranda mimosifolia* (Jacaranda) from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Director Open Space at no cost to Council.
73. 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.
74. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system.
75. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).
76. In addition to the mandatory rainwater retention and re-use system provided, an **on-site stormwater detention** system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
77. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanized grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.
78. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such

Item 2

runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.

79. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.
80. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
81. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of eth development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
82. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
83. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

Item 2

84. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
85. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au 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.
86. In order to allow unrestricted access at all times for Ku-ring-gai Council waste collection vehicles into the basement garbage collection area - no doors, grilles, gates or other devices are to be **provided in the access driveways to the basement carpark preventing this service**.
87. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.
88. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Davies Geotechnical and subsequent reports. Over the course of the works a qualified Geotechnical/ hydrogeological Engineer must complete the following:
 - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Groundwater modelling and analysis to assess groundwater levels during and after construction and determine ways to ameliorate effects of development,
 - Review and endorse the design for excavation support,
 - Further monitoring and inspection as recommended in the above report(s) and as determined necessary,
 - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.

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

89. The development is to comply with the recommendations of the Access Report by Mark Relf of Accessibility Solutions dated 16 May 2005 for the nominated adaptable units in relation to kitchens, doors and door hardware. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to release of Construction Certificate.

Item 2

90. To achieve the minimum energy performance requirements, the following insulation shall be included in the development:

- Insulation with a minimum “R” value of 1.0 in the cavity brick walls;
- Weather seals to windows and doors;
- Insulation with a minimum “R” value of 2.0 in the roof/concrete ceiling and foil under the metal deck roof;
- Insulation with a minimum “R” value of 1.0 to the floor including separation from basement car parking.

Details are to be submitted to the approval of the Principal Certifying Authority prior to the release of the Construction Certificate.

91. In order to achieve an acceptable fit with the nearby heritage items and the locality, the colour scheme is to include a greater proportion of warm/earthy colours. A revised colour schedule is to be submitted to Council prior to the release of the Construction Certificate.
92. To protect the privacy of residents to the east, the balustrade of the terrace to the east of Unit 4.02 is to be set back to a distance of 8.5 metres from the eastern boundary. The area to the east of the balustrade is to be non-trafficable. Details are to be submitted for the approval of the Principal Certifying Authority prior to the release of the Construction Certificate.
93. To protect the privacy of residents to the south, the balustrade of the terrace to the south of Unit 4.03 is to be set back to a distance of 8 metres from the southern boundary. The area to the south of the balustrade is to be non-trafficable. Details are to be submitted for the approval of the Principal Certifying Authority prior to the release of the Construction Certificate.
94. Habitable rooms are to have a minimum floor to ceiling height of 2.7 metres. Details are to be submitted for the approval of the Principal Certifying Authority prior to the release of the Construction Certificate.
95. The development is to provide night lighting along all driveways and footpaths throughout the site such that the full length of travel paths is illuminated. Lighting is to be shielded so that neighbouring residences are not adversely affected. Details are to be provided prior to the release of the Construction Certificate.
96. The fencing and landscaping amendments to the south-west corner of the site required as conditions of this consent, are to be submitted to Council’s Strategic Traffic Engineer and approved prior to the release of the Construction Certificate.
97. 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.

Item 2

98. 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).
99. 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.
100. 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 Construction Certificate.
101. The developer shall submit to Council a letter from the energy supply authority and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone and power services, prior to the release of the Construction Certificate. Application may be made to Energy Australia Phone No. 13 1525 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.
102. 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.

Item 2

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF 37 ADDITIONAL DWELLINGS IS CURRENTLY \$761,401.80. 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 30 June 2004, calculated for additional person as follows:

1. Community Facilities	\$1,117.76
2. Park Acquisition and Embellishment Works - Killara	\$6,384.75
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

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

Fifty percent (50%) of this bond will be refunded upon issue of the 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.

Item 2

104. A CASH BOND/BANK GUARANTEE of \$6 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

#5 *Liquidambar styraciflua* (Sweet Gum) \$2 000.00
Adjacent to eastern (side) site boundary

#7 *Macadamia tetraphylla* (Macadamia) \$500.00
Adjacent to southern/Greengate Lane site boundary

#14 *Eucalyptus cinerea* (Argyle Apple) \$2 000.00
Adjacent to northern/Bruce Ave site boundary

#37 *Washingtonia filifera* (Cotton Palm) \$500.00
Adjacent to southern/Greengate Lane site boundary

#40 *Jacaranda mimosifolia* (Jacaranda) \$1 000.00
Adjacent to southern/Greengate lane site boundary

105. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
106. The Applicant must submit carry out the following infrastructure works in the Public Road:
- Construct new concrete footpath for the Bruce Avenue frontage of the development.
 - Construct half width road pavement in Greengate Lane (west) and road pavement for the width required by Council in Greengate Lane (south) for the full frontage of the development, including new upright kerb and gutter.

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

Item 2

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.

107. Prior to issue of the Construction Certificate the Applicant must submit, for approval by the Principal Certifying Authority, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements clearly dimensioned. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- a) All parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply in full with Australian Standard 2890.1 – 2004 "Off-street car parking".
- b) A clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement.
- c) No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area.

Item 2

The vehicle access and accommodation arrangements are to be constructed in accordance with the certified plans.

108. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document “*Managing Urban Stormwater – Soils and Construction, Volume 1*” (2004). A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47.
109. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:
- Exact location and reduced level of discharge point to the public drainage system.
 - Full layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
 - Location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems. Where proprietary products are to be used, manufacturer specifications or equivalent shall be provided.
 - Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments.
 - Details of the required **on-site detention** tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
 - The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based on Drawings 56979-1 to -4 by Kneebone & Beretta submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.

110. Prior to issue of the Construction Certificate the Applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal

Item 2

Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

111. Prior to issue of the Construction Certificate the applicant must make contact with all relevant utility providers whose services will be impacted upon by the approved development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifying Authority, must be obtained. All utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage must be provided by the developer in accordance with the specifications of those supply authorities.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

112. A report on the existing dwellings is to be submitted and approved to the heritage officer's satisfaction prior to commencement of the work and prior to issue of a Construction Certificate.

The report is to be prepared by a heritage consultant included in the NSW Heritage Office list of recognized consultants or other suitably qualified consultants who have knowledge and experience in preparing archival recording documents.

The report is to be a bound A4 report and must include copies of drawings submitted with the application including site surveys and specialist reports such as heritage assessments, dilapidation report, and builders or engineers reports. Three copies of the report are to be submitted, one copy with negatives. Any archival documents such as family records, old photographs should also be included.

All photographs to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. A photographic recording sheet to be included. Photographs of the following:

- Each elevation
- All interior rooms (1,3 and 5 Bruce Ave only)
- All structures on site such as sheds, outhouses and significant landscape features
- Several photographs of house from public streets or laneways including several views showing relationship of the group of houses to neighbouring buildings.

Minimum requirements:

- Title page
- Statement of reasons the recording was made
- Location Plan showing relationship of site to nearby area
- Site plan to scale (1:200 – 1:500) showing all structures and site elements
- Floor Plan (1:100)

Item 2

- Black & White archival quality photographs, contact prints with negatives and selected prints (one copy of negatives other copies with contact sheets and selected prints)
- Colour slides (one set)

Digital images and CDs may be submitted as supplementary information.

113. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
114. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
115. 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
#5 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to eastern (side) site boundary	6.0m
#14 <i>Eucalyptus cinerea</i> (Argyle Apple) Adjacent to northern/Bruce Ave site boundary	6.0m

116. 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 Greengate Lane shall be fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site:

Tree/Location	Radius From Trunk
#7 <i>Macadamia tetraphylla</i> (Macadamia) Adjacent to southern/Greengate Lane site boundary	4.0m

Item 2

#37 *Washingtonia filifera* (Cotton Palm) 3.0m
Adjacent to southern/Greengate Lane site boundary

#40 *Jacaranda mimosifolia* (Jacaranda) 5.0m
Adjacent to southern/Greengate lane site boundary

117. 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.
118. Tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign to advise as minimum details, the following:
1. Tree Protection Zone
 2. this fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.
 3. If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works
 4. Name, address, and telephone number of the developer.
119. The area of the Tree Protection Zone is to be mulched to a depth of 100mm with organic material being 75% leaf litter and 25% wood, and this being composted material preferably from the same genus and species of tree as to that where the mulch is to be applied, ie species specific mulch. The depth of mulch and type as indicated, to be maintained for the duration of the project.
120. No services either temporary or permanent are to be located within the Tree protection Zone. If services are to be located within the Tree Protection Zone, special details will need to be provided by a qualified consulting Arborist for the protection of the tree regarding the location of the service/s.
121. In the event of prolonged dry periods, or where a tree has been transplanted, or where excavation nearby, especially up slope, leads to drying out of soil profiles closest to the tree/s, the tree/s is to be deep root watered thoroughly at least twice a week. The need for such watering is determined readily by observing the dryness of the soil surface within the dripline of the tree by scraping back some mulch. Mulch to be reinstated afterwards. In the event of disrupted ground or surface water flows to the tree due to excavation, filling or construction, an irrigation system may be required to be installed, consideration must be given to volume, frequency, and drainage of water delivered, and this should be in consultation with a qualified consulting Arborist.
122. If a tree is growing down slope from an excavation, a silt fence located along the contours of the site in the area immediately above the Tree Protection Zone fencing may be need to be installed and regularly maintained to prevent burial and asphyxiation of the roots of the tree.

Item 2

To allow for the maintenance of both fences, the silt fence must be constructed separately to the tree protection fence and the two fences must be constructed independently of each other and stand alone. To reduce competition the Tree Protection Zone is to be kept free of weeds for the duration of the development works.

123. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
124. Prior to the commencement of **any excavation works** on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of the residence at 9 Bruce Avenue. The report must be completed by a consulting structural/geotechnical engineer. Upon submitting a copy of the dilapidation report to Council (or certification that no report is required), a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. If the residence has been demolished under a separate approval, no dilapidation report is required.
125. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

1. A plan view of the entire site and frontage roadways indicating:

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in the frontage roadways,
- Location of any proposed crane standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible

2. Traffic Control Plan(s) for the site

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication “Traffic Control Worksite Manual” and be designed by a person licensed to do so (minimum RTA ‘red card’ qualification). The main

Item 2

stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.

- Traffic controllers are to be stationed at the intersection(s) of Bruce Avenue and Greengate Lane and at the bend when construction vehicles are approaching the site from Greengate Lane.
- Consideration should be given to using an existing driveway off Bruce avenue for some site access.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

3. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided.

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

In addition, the plan must address:

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

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

126. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be

Item 2

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

127. Prior to the commencement of any works on site the applicant shall submit to Ku-ring-gai Council a full dilapidation report on the visible and structural condition (**including a photographic record**) of the following public infrastructure:

- a) Full road pavement width, including kerb and gutter, of Bruce Avenue over the site frontage.
- b) All driveway crossings and laybacks opposite the subject site, including rear accesses and fences to Greengate Road properties.

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

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

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this respect, the infrastructure damage bond lodged by the subject developer may be used by Council to repair damage regardless. A written acknowledgment from Council engineers must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

128. If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all the work that is to be considered, and the works are not to commence until approval has been granted. The designs are to include details of the following:

Item 2

- (1) How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road
- (2) That the locations of the rock anchors are registered with Dial Before You Dig
- (3) That approval of all utility authorities likely to use the public road has been obtained. All temporary rock anchors are located outside the allocations for the various utilities as adopted by the Streets Opening Conference.
- (4) That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or work in the public road.
- (5) That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than 75mm high. The signs are to be at not more than 60m spacing. At least one sign must be visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

Permanent rock anchors are not to be used where any part of the anchor extends outside the development site into public areas or road reserves.

All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads Act 1993.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

129. 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.
130. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
131. On completion of the LANDSCAPE WORKS, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.
132. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:

Item 2

- New concrete footpath along the Bruce Avenue frontage of the site.
- New road pavement and kerb and gutter in accordance with the plans approved by Council under the Roads Act.
- Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
- Full repair and resealing of any road surface damaged during construction.
- Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

133. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. 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. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.
134. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

Item 2

135. Prior to issue of the Occupation Certificate the following must be provided to Council (attention Development Engineer):

- a) A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
- b) A copy of any works-as-executed drawings required under this consent
- 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 applies particularly where the appointed Principal Certifying Authority (PCA) is not Ku-ring-gai Council.

136. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.
137. Prior to issue of an Occupation Certificate the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed car park complies with the approved Construction Certificate plans,
- b) That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 "Off-Street car parking" in terms of minimum parking space dimensions provided,
- c) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
- d) That no doors, gates, grilles or other structures have been provided in the access driveways to the basement car park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.
- e) That the vehicular headroom requirements of:
 - Australian Standard 2890.1 - "Off-street car parking",
 - 2.44m height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement car park.

138. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:

- a) That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
- b) That the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.

Item 2

- c) That retained water is connected and available for uses including toilet flushing, laundry and garden irrigation.
- d) That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
- e) That all grates potentially accessible by children are secured.
- f) That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and
- g) All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The following certification sheets **must be accurately completed and attached** to the certification:

- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47
- On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.

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

- As built (reduced) surface and invert levels for all drainage pits.
- Gradients of drainage lines, materials and dimensions.
- As built (reduced) level(s) at the approved point of discharge to the public drainage system.
- As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.
- The achieved storage volumes of the installed retention and detention storages and derivative calculations.
- As built locations of all access pits and grates in the detention and retention system(s), including dimensions.
- The size of the orifice or control fitted to any on-site detention system.
- Dimensions of the discharge control pit and access grates.
- The maximum depth of storage possible over the outlet control.
- Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

The WAE plan(s) must show the as-built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked **in red** on a copy of the Principal Certifying Authority stamped construction certificate stormwater plans.

Item 2

140. Prior to issue of the Occupation Certificate a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.
141. Prior to issue of the Occupation Certificate a suitably qualified and consulting geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out :
- a) According the relevant Australian Standards and guidelines, and
 - b) According to any approved Geotechnical report undertaken for the development, and
 - c) In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.
142. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the Report on Geotechnical Investigation by Davies Geotechnical and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
143. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the residence at 9 Bruce Avenue.

The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate. If the residence has been demolished under a separate approval, no follow-up report is required.

BUILDING CONDITIONS

144. 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.

Item 2

- g. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
145. 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. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.
 - e. A Registered Surveyor's Report on completion of footings but before external walls are above floor level verifying compliance with this consent.
 - f. A Registered Surveyor's Reports confirming approved floor levels for all floors.

T Southwell
Development Assessment Officer

R Kinninmont
Team Leader
Assessment Team – South

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation

Attachments:

- Location map - 548754**
- Zoning map - 548755**
- Architectural plans – 548933 and 548934**
- Landscape plan - 548760**
- Appendix 1 - 548761**
- Appendix 2 - 548762**

LOCATION SKETCH

1-7 BRUCE AVE & 6 GREENGATE LANE KILLARA.

DEVELOPMENT APPLICATION No 514/05



Scale : 1:2500

24-10-2005



AGREEMENT

OBJECTION

SUBJECT LAND



PETITION

SUBMISSION

CIRCULATED AREA



Zoning Extract

Development Application No 514/05



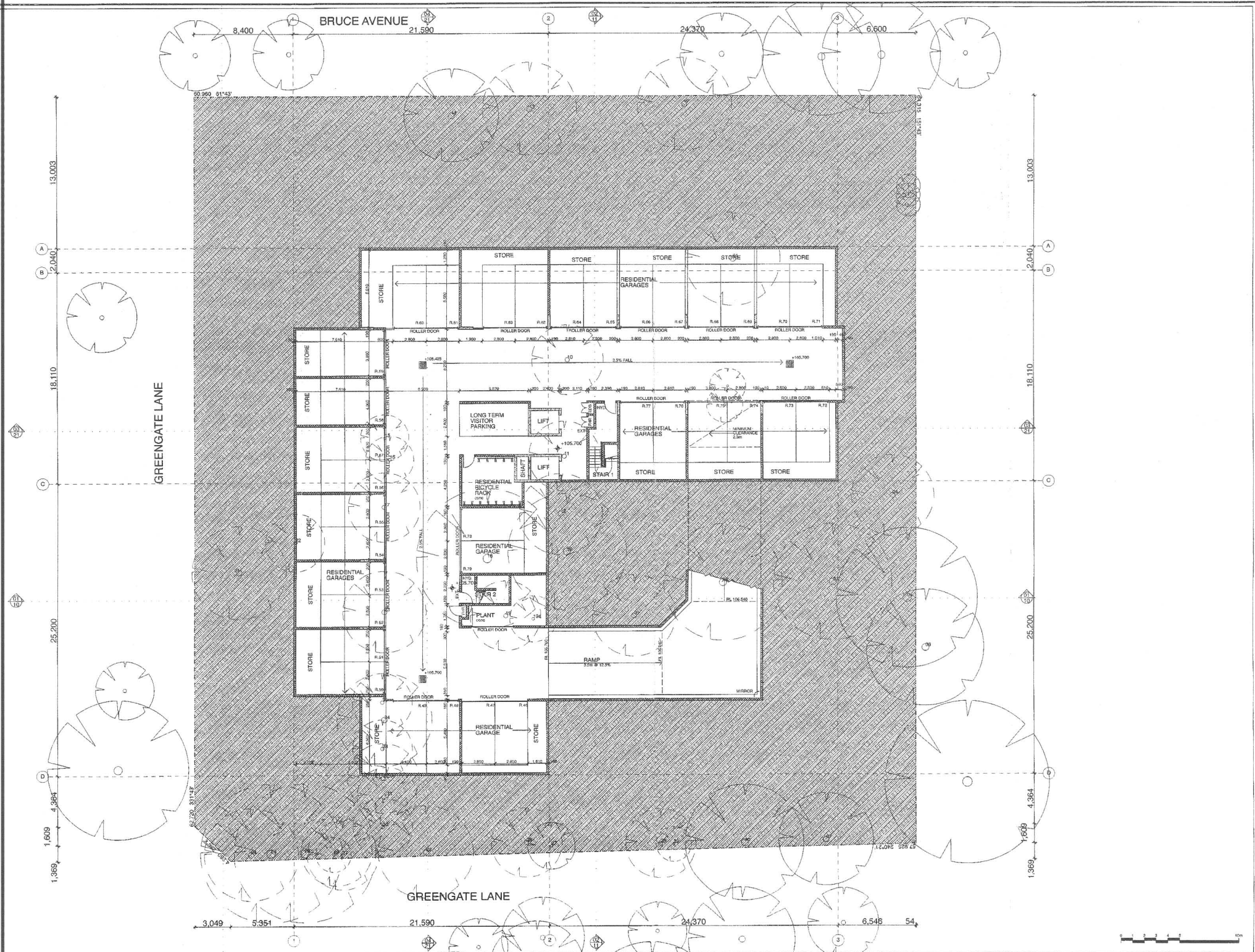
24-10-2005

Scale = 1:2500

- 3(a) BUSINESS 3(a)-(A2)
- EXISTING COUNTY ROAD
- 2(b) RESIDENTIAL 2(b)
- 2(c2) RESIDENTIAL 2(c2)
- 2(d) RESIDENTIAL 2(d)
- 2(d3) RESIDENTIAL 2(d3)

- 2(e) RESIDENTIAL 2(e)
- SCH SPECIAL USES 5(a) (Schools etc)
- SPECIAL USES 5(b) (Railway)







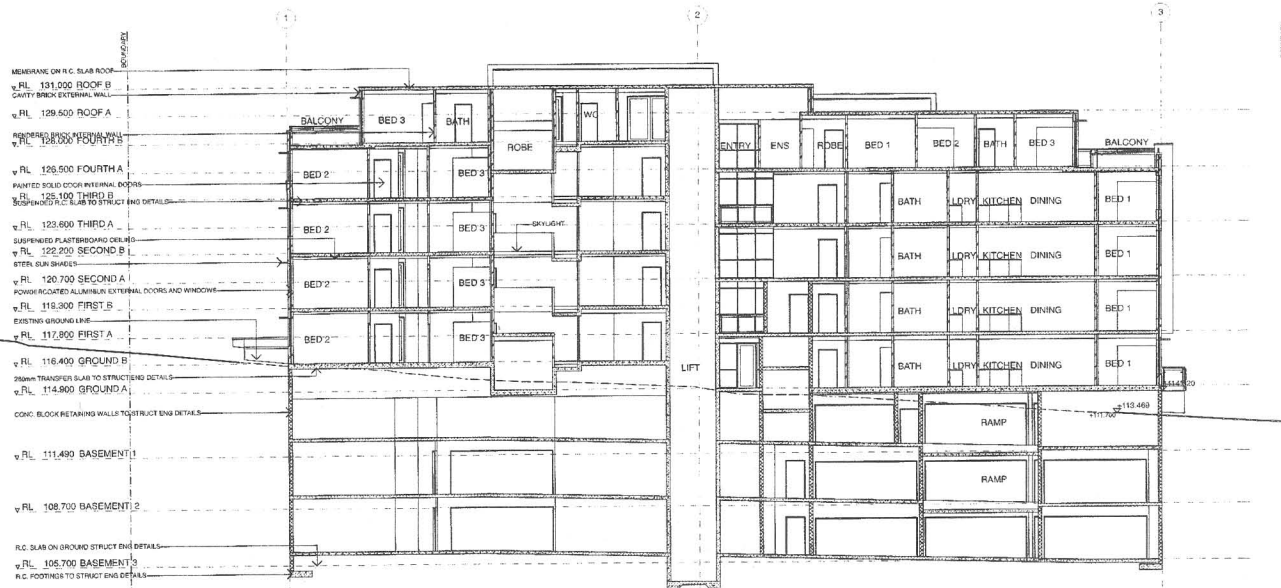
UNIVERSITY OF WOLLONGONG
SCHOOL OF ARCHITECTURE
ARCHITECTURAL DRAWING
1:100

PROJECT DETAILS
1-7 BRUCE AVE &
6 GREENGATE LANE
KILLARA
NSW 2571

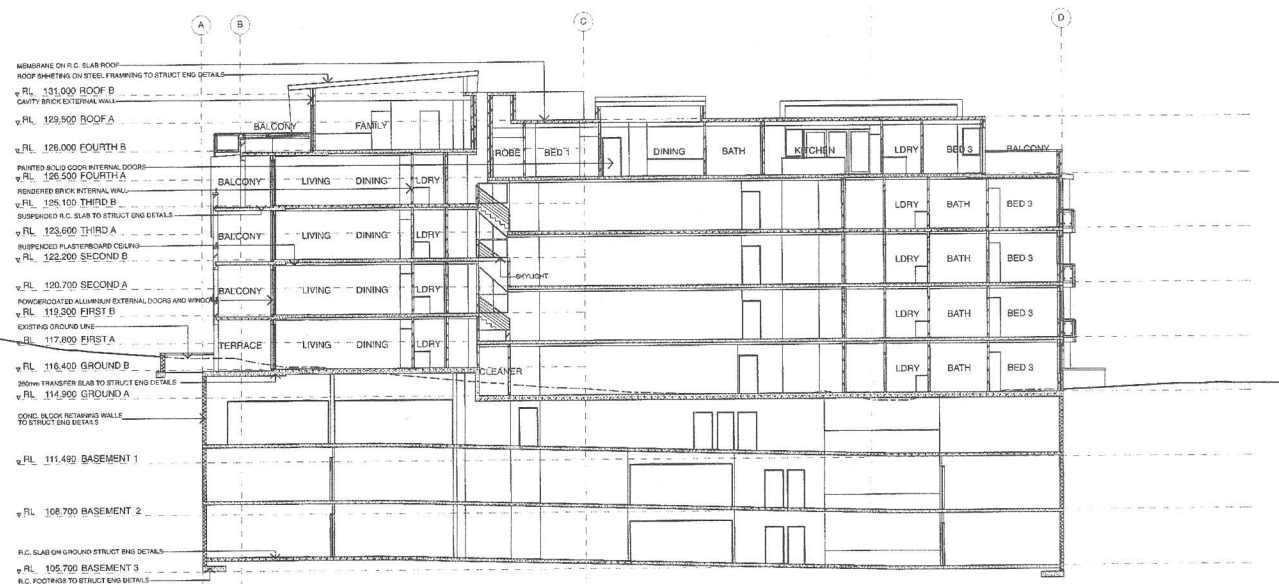
DATE: 04/18
SCALE: 1:100
DRAWING NO: 100/005

BASEMENT 3 PLAN

DA-01



03 SECTION 1:100



04 SECTION 1:100

C. BUILDING LAMPING DESIGN 26/05/21
 C. NATIONAL ARCHITECTURE 26/05/21
 A. ISSUED TO CLIENT 26/05/21

Approved
 Parley + Grant
 Architects
 10/10/2021 or previous 20/11/2021 007 002

Project Details
 1-7 BRUCE AVE &
 6 GREENGATE LANE
 KILLARA
 NSW 2071

Drawn: JG
 Checked: JG
 Date: 26/05/21

Job Number: 0416
 Scale: 1:100

Drawing Name: SECTIONS

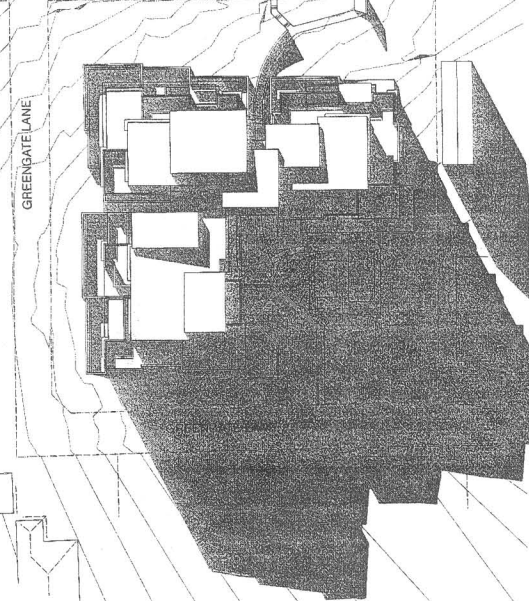
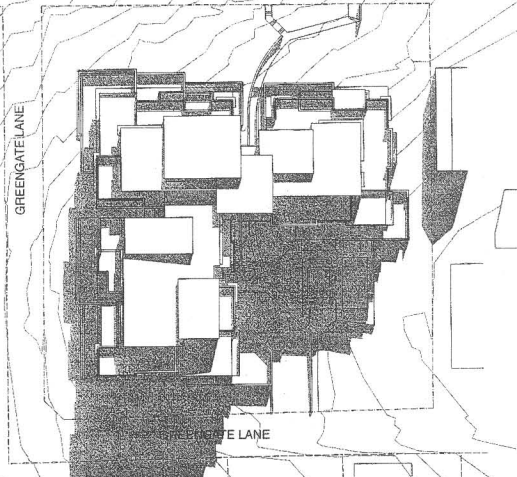
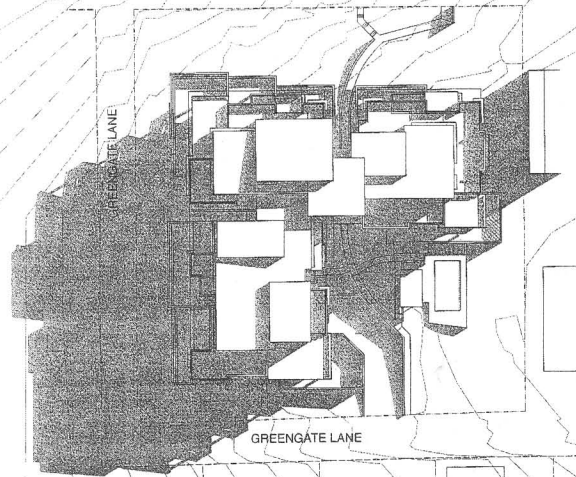
Drawing Number: 0416

0 1 2 3 4 5 10m

BRUCE AVENUE

BRUCE AVENUE

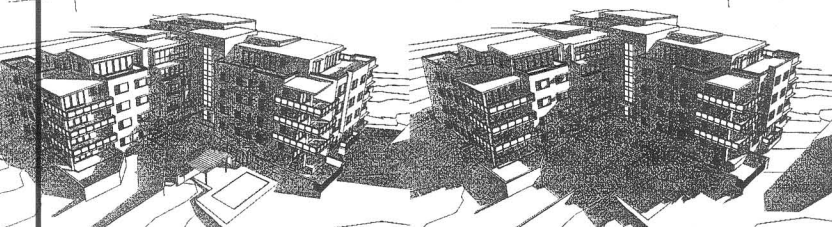
BRUCE AVENUE



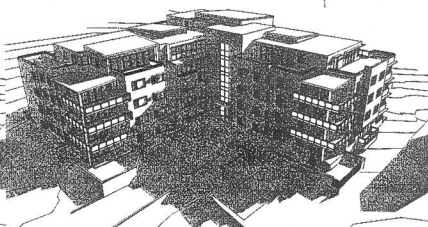
JUN 21st 9am 1:300

JUN 21st 12noon 1:300

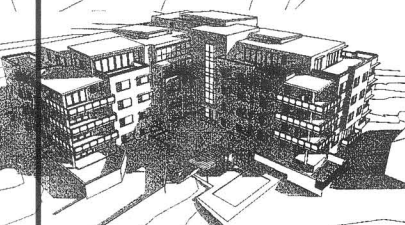
JUN 21st 3pm 1:300



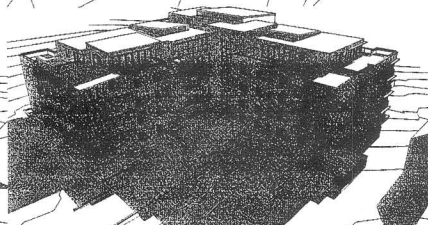
VIEW 1 JUN 21st 9am



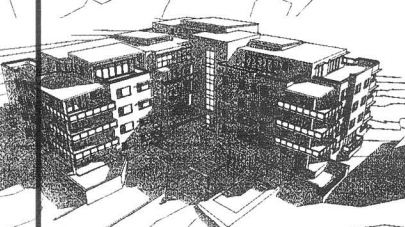
VIEW 1 JUN 21st 12noon



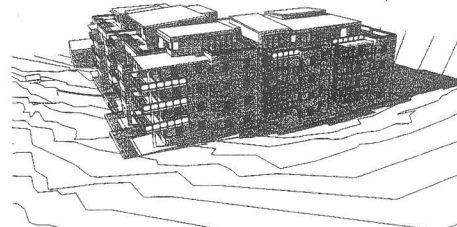
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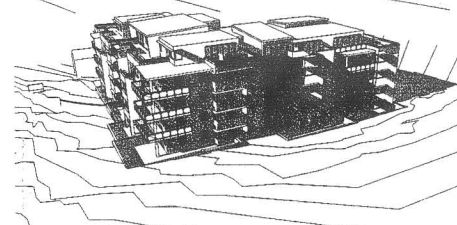
VIEW 1 JUN 21st 11am



VIEW 1 JUN 21st 11am



VIEW 2 JUN 21st 12noon



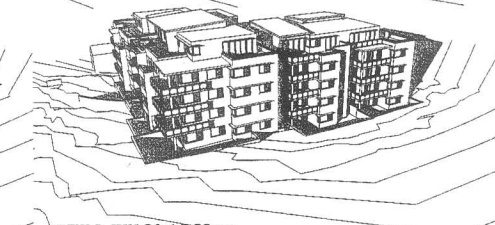
VIEW 2 JUN 21st 1pm



VIEW 2 JUN 21st 2pm



VIEW 2 JUN 21st 3pm



VIEW 2 JUN 21st 3:30pm

BUILDING MOVED 6m EAST
 & BUILDING FORMS REMOVED
 & RELOCATED TO CLIENT

Appendments

1. Fothery & Grant
 Architecture

Project Details

New South Wales
 For Building & Planning Approval

1-7 BRUCE AVE &
 6 GREENGATE LANE
 KILLARA
 NSW 2074

Drawings created by F&G Architecture & Planning Pty Ltd on 04/18/2018

Drawings created by F&G Architecture & Planning Pty Ltd on 04/18/2018

Drawings created by F&G Architecture & Planning Pty Ltd on 04/18/2018

Drawings created by F&G Architecture & Planning Pty Ltd on 04/18/2018

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Drawings created by F&G Architecture & Planning Pty Ltd on 04/18/2018

Drawings created by F&G Architecture & Planning Pty Ltd on 04/18/2018

SHADOW DIAGRAMS

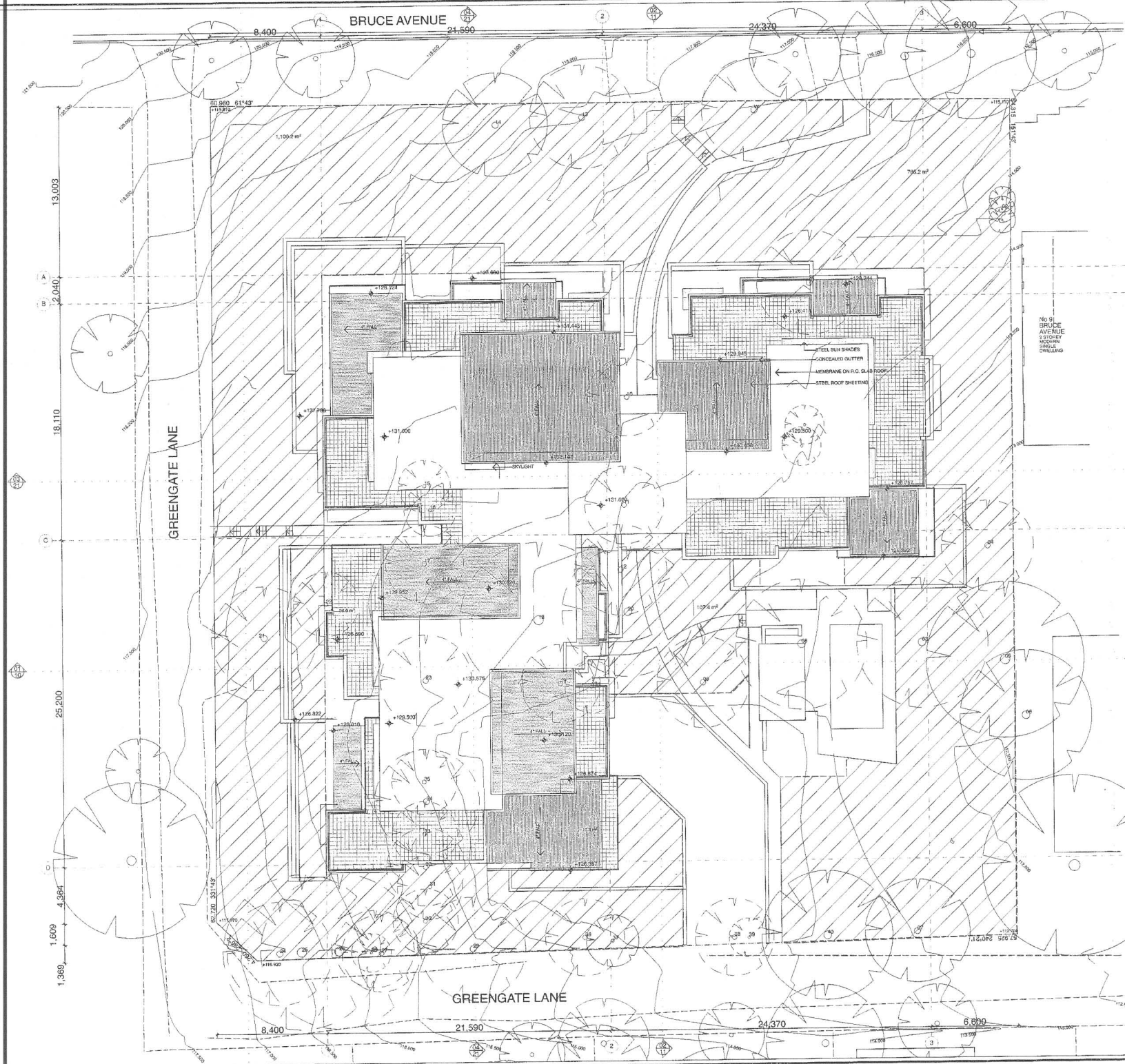
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DA-12

Revision

B

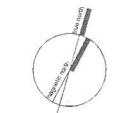
04/18/2018



TREE SCHEDULE

TREE NO	TREE TYPE	COND.	RETAIN/REMOVE	REASON
1	JACARANDA	FAIR	REMOVE	WITHIN BUILDING FOOTPRINT
2	4 X CYPRRESS	GOOD	RETAINED	GOOD SPECIMENS SCREEN VALUE
3	MACADAMIA	FAIR	REMOVE	WITHIN BASEMENT FOOTPRINT
4	CREPE MYRTLE	POOR	REMOVE	POOR CONDITION
5	LIQUIDAMBER	FAIR	RETAINED	SCREENING VALUE
6	CAMELIA	POOR	RETAINED	ON NEIGHBOURS PROPERTY
7	MACADAMIA	FAIR	RETAINED	SCREEN VALUE
8	JACARANDA	FAIR	REMOVE	WITHIN BASEMENT FOOTPRINT
9	MACADAMIA	FAIR	REMOVE	WITHIN BUILDING FOOTPRINT
10	CHINESE JUNIPER	FAIR	REMOVE	WITHIN BUILDING FOOTPRINT
11	MULBERRY	POOR	REMOVE	POOR CONDITION
12	LOQUAT	FAIR	REMOVE	TOO CLOSE TO BUILDING
13	BOX ELDER	POOR	REMOVE	POOR CONDITION
14	ARGYLE APPLE	FAIR	RETAINED	SCREEN & STREET SCAPES VALUE
15	JACARANDA	POOR	REMOVE	POOR CONDITION
16	SILKY OAK	GOOD	REMOVED	WITHIN BUILDING FOOTPRINT
17	ILLAWARRA FLAME	GOOD	REMOVED	WITHIN BUILDING FOOTPRINT
18	JACARANDA	FAIR	REMOVE	TOO CLOSE TO BASEMENT
19	RIVER SHEOAK	GOOD	REMOVE	WITHIN BUILDING FOOTPRINT
20	GORDONIA	GOOD	REMOVED	TOO CLOSE TO BUILDING
21	EUROPEAN NETTLE	POOR	REMOVE	POOR CONDITION
22	COINSPOT FERN	GOOD	REMOVED	WITHIN BUILDING FOOTPRINT
23	PEPPERCORN	POOR	REMOVE	POOR CONDITION
24	CAMPHOR LAUREL	FAIR	REMOVE	WEED SPECIES
25	CAMPHOR LAUREL	FAIR	REMOVE	WEED SPECIES
26	CAMPHOR LAUREL	POOR	REMOVE	WEED SPECIES
27	CAMPHOR LAUREL	POOR	REMOVE	POOR CONDITION
28	ILLAWARRA FLAME	POOR	REMOVE	POOR CONDITION
29	COMMON OLIVE	POOR	REMOVE	POOR CONDITION
30	JACARANDA	POOR	REMOVE	POOR CONDITION
31	JACARANDA	POOR	REMOVE	POOR CONDITION
32	JACARANDA	POOR	REMOVE	POOR CONDITION
33	JACARANDAH	POOR	REMOVE	POOR CONDITION
34	CHINESE ELM	POOR	REMOVE	POOR CONDITION
35	JACARANDA	POOR	REMOVE	POOR CONDITION
36	MACADAMIA	POOR	REMOVE	POOR CONDITION
37	COTTON PALM	GOOD	RETAINED	GOOD SPECIMENS SCREEN VALUE
38	MACADAMIA	FAIR	REMOVED	WITHIN DRIVEWAY FOOTPRINT
39	MACADAMIA	FAIR	REMOVED	POOR CONDITION
40	JACARANDA	FAIR	RETAINED	SCREEN VALUE
W	COTONEASTER	POOR	REMOVE	WEED SPECIES

4.7 m² DEEP SOIL AREA TOTAL 1993m²



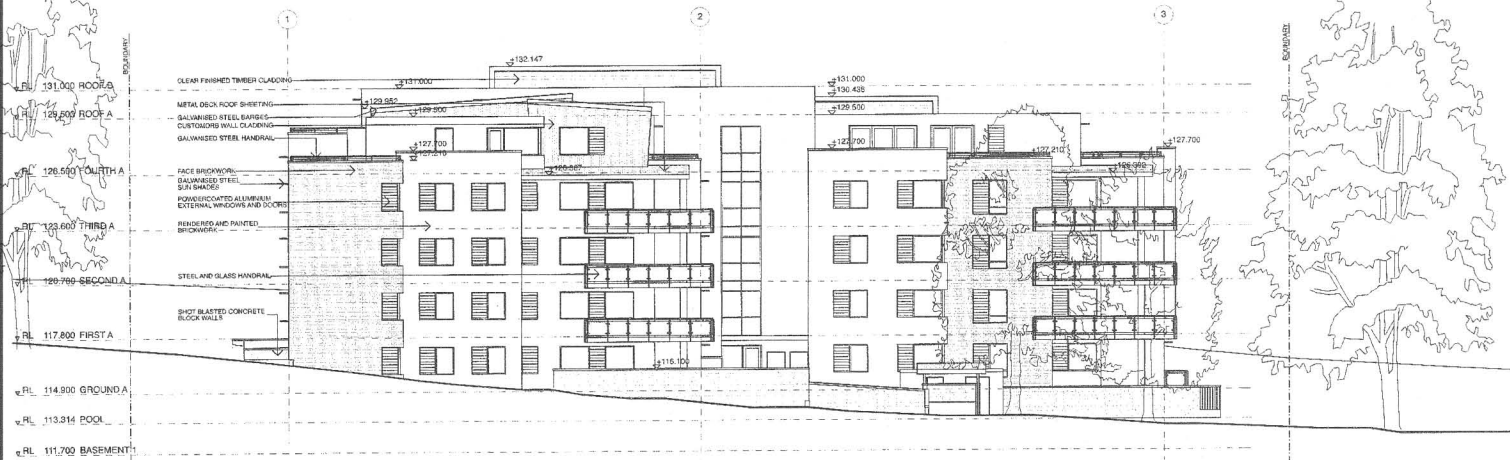
D BUILDING (CONCRETE) ABOVE JAS/05
 E BUILDING (CONCRETE) 2nd FLOOR JAS/05
 F BUILDING (CONCRETE) 3rd FLOOR JAS/05
 G BUILDING (CONCRETE) 4th FLOOR JAS/05
 H BUILDING (CONCRETE) 5th FLOOR JAS/05

Prepared By:
 Planner & Grant
 Architecture
 1-7 BRUCE AVE &
 6 GREENGATE LANE
 KILLARA
 NSW 2071

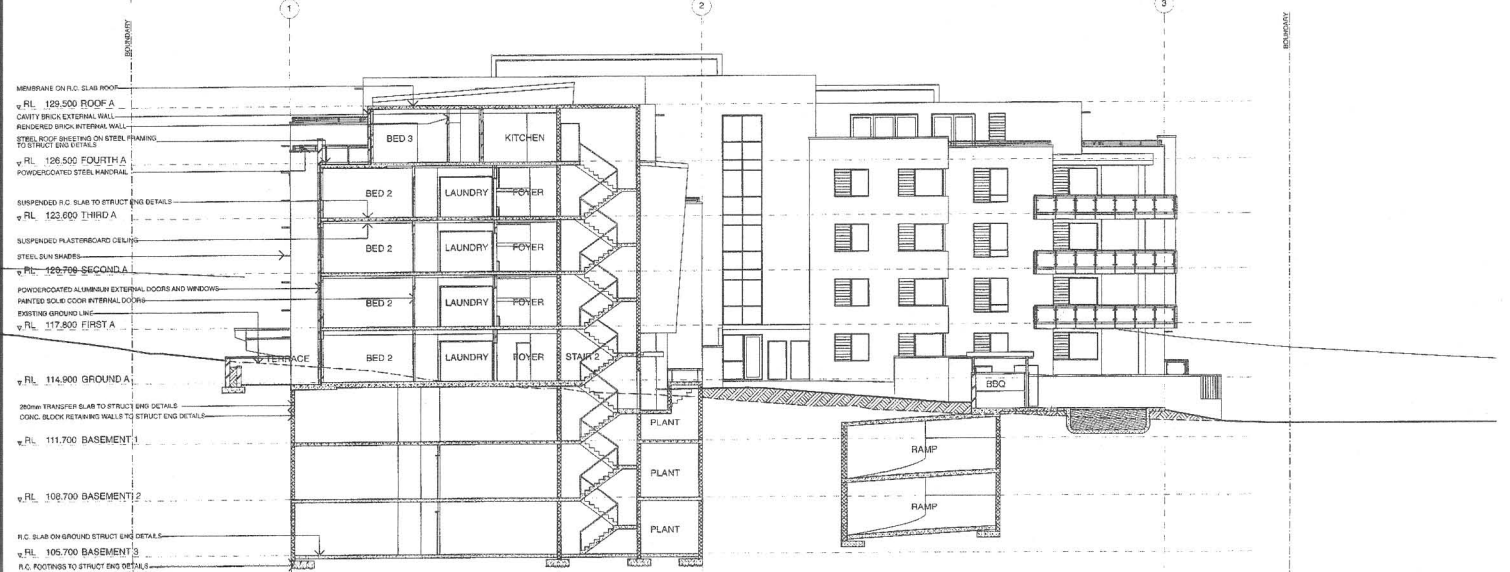


ROOF AND SITE PLAN
 Drawing Number: DA-09
 Date: 20/05/05

NORTH ELEVATION 1:100 (BRUCE AVENUE)



SOUTH ELEVATION 1:100 (GREENGATE LANE)



C. BUILDING (CONCRETE) 2008/05

B. BUILDING (CONCRETE) 2008/05

A. BUILDING (CONCRETE) 2008/05

Amendments

1. Forster + Grant

Architecture

Project Details

1-7 BRUCE AVE & 6 GREENGATE LANE

KILLARA NSW 2071

Scale 1:100

Scale 1:100

Scale 1:100

Scale 1:100

Scale 1:100

Scale 1:100

Scale 1:100

Scale 1:100

Scale 1:100

Scale 1:100

Scale 1:100

Scale 1:100

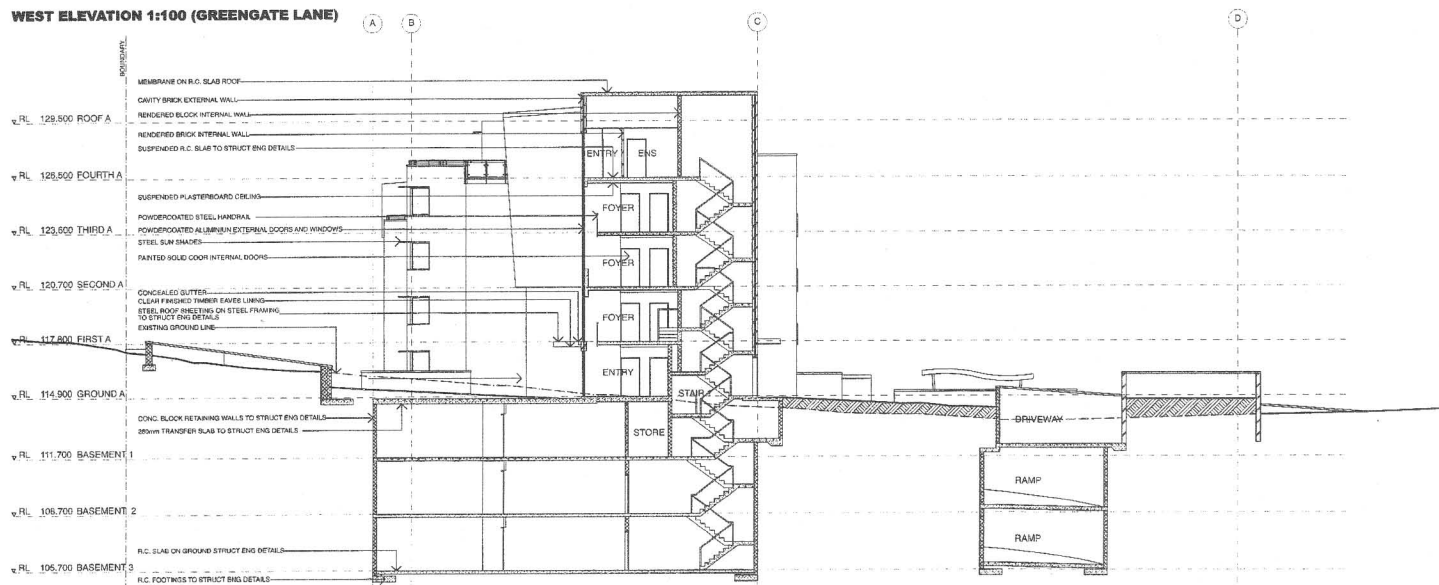
Scale 1:100



EAST ELEVATION 1:100



WEST ELEVATION 1:100 (GREENGATE LANE)



02 SECTION 1:100

C BUILDING COVERED ROOF 100000
 B BUILDING COVERED ROOF 100000
 A BUILDING COVERED ROOF 100000

1-7 BRUCE AVE &
 6 GREENGATE LANE
 KILLARA
 NSW 2071

Project Details
 New Unit Development
 For Central State Properties Pty Ltd
 1-7 BRUCE AVE &
 6 GREENGATE LANE
 KILLARA
 NSW 2071

Drawn
 JG
 Checked
 JG
 Date
 04/18
 Scale
 1:100
 Drawing Notes

ELEVATIONS 2
 Drawing Number
 02



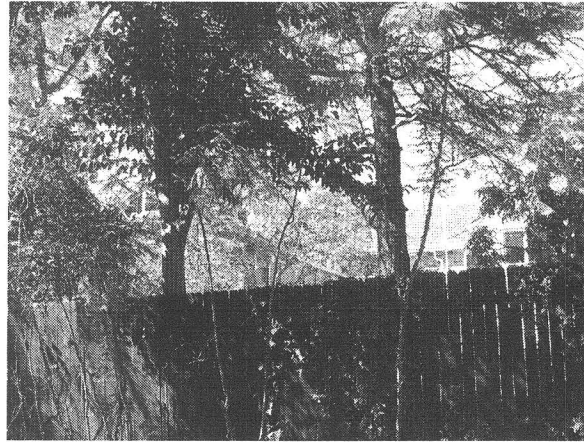
being a big attraction with the general public, with many visitors taking photos and videos. The "water" is pumped into the planters from a drainage point (by gravity) within each planter, which in turn draws it to the side stem/water system. The Landscape Contractor is so confident in their satisfaction that the commencement of the works is specified in Abbott's contract.

[illegible]

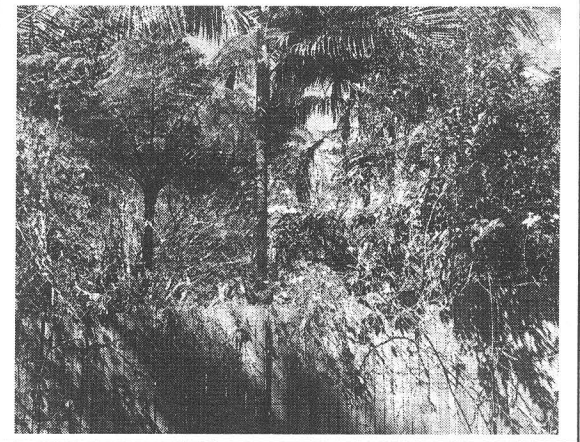
Surrounding development



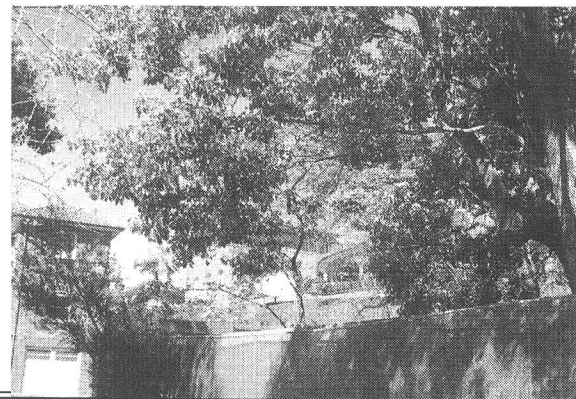
2 Greengate Lane



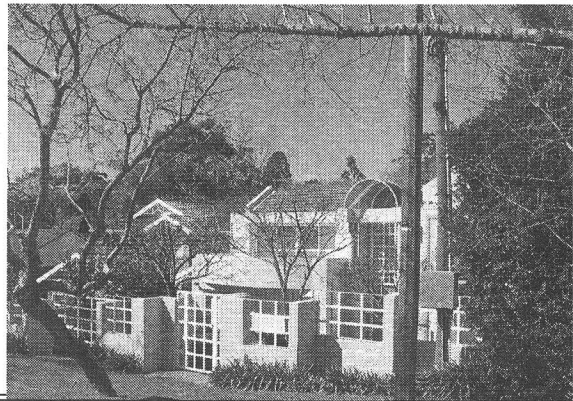
4 Greengate Road



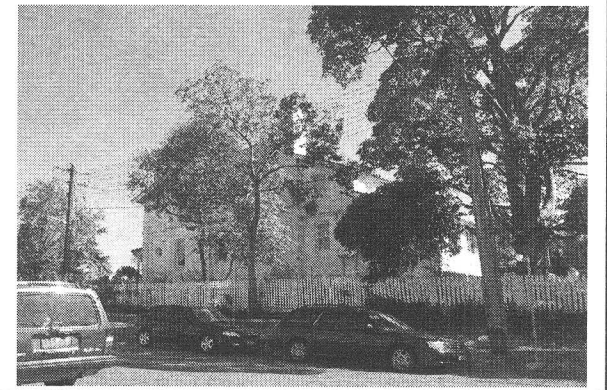
6 Greengate Road



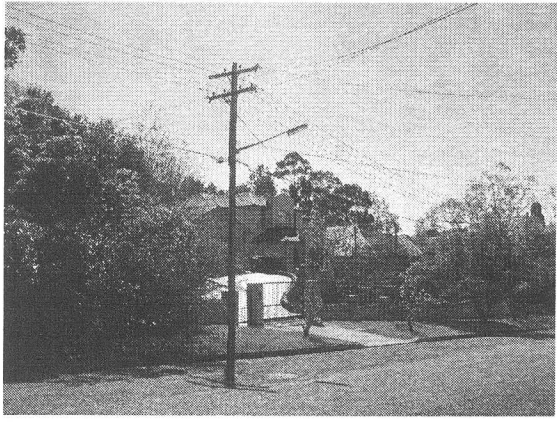
Greengate Hotel (heritage listed)



9 Bruce Ave



663 Pacific Highway (heritage listed)



Bruce Ave, opposite subject site



Greengate Lane, adjacent to subject site



View from lower terrace of Greengate Hotel



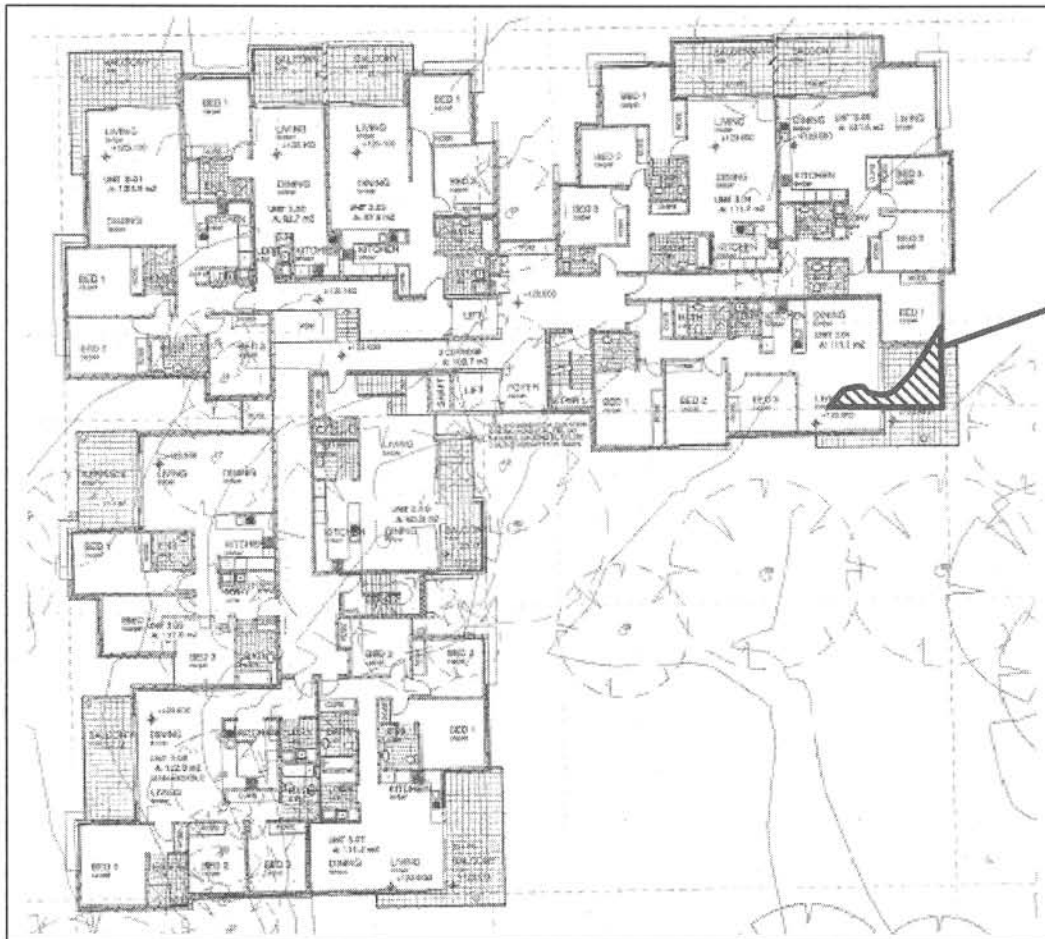
View from top terrace of Greengate Hotel

Appendix 2

DA514/05



Area of non-compliance with Cl 25I(8) Maximum storeys – eastern elevation



Area of non-compliance with maximum storey control – third floor

Item 3

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	1405 PACIFIC HIGHWAY, WARRAWEE - DEMOLITION OF EXISTING STRUCTURES, CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING CONTAINING 10 DWELLINGS AND BASEMENT CARPARKING
WARD:	Wahroonga
DEVELOPMENT APPLICATION N^o:	706/05
SUBJECT LAND:	1405 Pacific Highway, Warrawee
APPLICANT:	Bozorg, Baneshjoo & Parsanejad C/- Glendinning Minto & Associates P/L
OWNER:	Mr Bahram Bozorg, Mrs Mitra Bozorg, Mr Rahim Baneshjoo and Mrs Mahshad Parsanejad
DESIGNER:	Barry Rush and Associates
PRESENT USE:	Low density residential
ZONING:	Residential 2(d3)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance, as amended by LEP 194
COUNCIL'S POLICIES APPLICABLE:	KPSO - LEP 194, DCP 31 - Access, DCP 40 - Waste Management, DCP 43 - Car Parking, DCP 47 - Water Management, DCP 55 - Railway & Pacific Highway corridor and St Ives Centre
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP 55, SEPP 65, SREP 20
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	30 June 2005, Amended plans:
40 DAY PERIOD EXPIRED:	9 August 2005
PROPOSAL:	Demolition of existing structures, construction of a residential flat building containing 10 dwellings and basement car parking
RECOMMENDATION:	Approval

Item 3

DEVELOPMENT APPLICATION N^o 706/05
PREMISES: 1405 PACIFIC HIGHWAY, WARRAWEE
PROPOSAL: DEMOLITION OF EXISTING STRUCTURES,
CONSTRUCTION OF A RESIDENTIAL FLAT
BUILDING CONTAINING 10 DWELLINGS
AND BASEMENT CARPARKING
APPLICANT: BOZORG, BANESHJOO & PARSENEJAD
C/- GLENDINNING MINTO & ASSOCIATES
P/L
OWNER: MR BAHRAM BOZORG, MRS MITRA
BOZORG, MR RAHIM BANESHJOO AND
MRS MAHSHAD PARSANEJAD
DESIGNER BARRY RUSH AND ASSOCIATES

PURPOSE FOR REPORT

To determine development application No 705/05, which seeks consent for the demolition of an existing dwelling and the construction of a residential flat building containing 10 units, basement car parking and landscaping.

EXECUTIVE SUMMARY

Issues:

- Setbacks
- Privacy and residential amenity

Submissions: Three (3) submissions received

Land & Environment Court Appeal: No

Recommendation: Approval

HISTORY

Site history:

The site is used for residential purposes. There is no development history of relevance to the proposal.

Development application history:

22 December 2005, Local Environmental Plan No. 194 gazetted, rezoning the site to Residential 2(d3).

Item 3

20 March 2005, Pre- Development Application meeting held at Council. Issues raised included setbacks, response to streetscape and requirement to comply with the interface zone setback provision of LEP 194.

30 June 2005, Development Application No. 706/05 lodged.

20 July 2005, request for additional information (access report).

22 July 2005, surrounding property owners notified of the development.

26 August 2005, access report and amended floor plans submitted.

24 October 2005, applicant advised of non-compliance with setback interface zone setback requirement of 9 metres under LEP 194 and non-compliance with street setbacks.

26 October 2005, amended plans addressing zone interface setback lodged.

THE SITE

Zoning:	Residential 2(d3)
Visual Character Study Category:	1920-1945
Lot Number:	1
DP Number:	538088
Area:	1589m ²
Side of Street:	Northern side of Pacific Highway, western side of Winton Street
Cross Fall:	South to north by 3.67 metres (10%)
Stormwater Drainage:	South/south-west to Pacific Highway
Heritage Affected:	No
Required Setback:	10-12 metres Pacific Highway, 13-15 metres Winton Street
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

SITE DESCRIPTION

The subject site, described as Lot 1 in DP 538088 is known as 1405 Pacific Highway, Warrawee and is located on the northern side of Pacific Highway, on the corner of Winton Street. The site is trapezoidal in shape and slopes gradually by three (3) metres from the south-west to the north-east. Winton Street is a quiet, tree-lined street which runs in a south to north direction terminating at the North Shore railway line.

Item 3

Existing on the site a large single storey, Federation style, brick dwelling set approximately 28 metres from the Pacific Highway and 6 metres from Winton Street. A 1 metre high sandstone wall is located along the Pacific Highway and Winton Street boundaries.

The site is zoned Residential 2(d3) under LEP 194 and adjoins two sites zoned Residential 2(c2) (No.'s 2A and 2B Winton Street) to the north, beyond which is land zoned Residential 2(c). Land located opposite the site, with frontage to Pacific Highway, is also zoned Residential 2(d3). Properties located further north on the eastern side of Winton Street are zoned Residential 2(c). Land zoned Special Uses (School). Warrawee Public School is located opposite on the Pacific Highway.

Directly adjoining the site to the north is a large, two storey brick dwelling, which is located 1.5 metres from the boundary.

The existing character of the area is low density, older style, dwellings surrounded by landscaping. The area is in transition due to the recent gazettal of LEP 194. The site is within walking distance of Warrawee and Turramurra railway stations and local shops.

THE PROPOSAL

The proposal is for the demolition of an existing dwelling and the construction of a three (3) storey residential flat building containing ten (10) units and one (1) level of basement car parking.

The basement contains 13 resident car spaces, 3 visitor car spaces, including 2 disabled spaces and toilet, garbage/recycling area and storage space. Vehicular access is gained from Winton Street via a driveway at the eastern corner of the site.

The ground floor contains 3 single level 2 bedroom units (Apartments 3, 4 and 5) and the ground levels (living areas) of 2 two storey units (Apartments 1 and 2).

The first floor contains the second storey (bedroom areas) of Apartments 1 and 2 which contain 3 bedrooms and 3 x 2 bedroom units (Apartments 1, 8 and 9).

The second floor contains 2 large units, Apartment 9 which contains 2 bedrooms and Apartment 10 which contains 3 bedrooms.

The proposed building is constructed of painted and rendered brick with a terracotta tiled roof, colourbond fascias, glass blocks to the exterior of common stairways and stainless steel balustrades.

A 1.5 metres high sandstone fence is proposed along the southern and eastern boundaries of the site, along the Pacific Highway and Winton Street. Two powdercoated, galvanised steel gates are proposed, one at the corner of Pacific Highway and Winton Street and the other at the far western corner of the site.

Item 3

The landscape concept plan indicates curved decomposed granite or decorative gravel paths alongside the north, east and south of the building footprint. Dense tree and shrub planting is proposed within the Pacific Highway and Winton Street setbacks.

Primary pedestrian access is provided to the building via Winton Street, adjacent the entrance to the basement car park at the north-eastern corner of the site. A secondary pedestrian entrance, marked with a staircase, gate and water feature, is provided at the corner of Pacific Highway and Winton Street.

Amended plans dated 26 October 2005

The following changes have been made to the plans based on the recommendations of Council's assessment staff:

- The second floor of the building stepped further to the south, to comply with the 9 metres zone interface setback prescribed by Clause 25L(2) of LEP 194.
- Re-alignment of the southern side of the basement car park and deleting of two parking spaces to provide additional setback from the Pacific Highway (10 metres). It should be noted that, despite the reduction in car parking, the proposal complies with Council's car parking controls.

The amended plans did not require re-notification as the changes would have a lesser impact than the original proposal.

CONSULTATION - COMMUNITY

In accordance with Council's Notification policy, adjoining owners were given notice of the application from 22 July to 21 August 2005.

The following submissions have been received:

Jocelyn Holmes: 4 Winton Street Warrawee

Gavin Roberts and Simone Schwartz: 2a Winton Street, Warrawee

David Harricks: 11A Winton Street, Warrawee

The following issues were raised:

Additional traffic flow and on-street parking pressure

This relates to the perceived increase in parking and traffic congestion along Winton Street, which is a quiet cul-de-sac, given that no right hand turning bay is available north bound along the Pacific Highway and that parking is prohibited during clearway times along the Pacific Highway.

Comment:

A Traffic Impact Assessment was submitted with the application. The report details that, according to the Roads and Traffic Authority Traffic Generating Guidelines, the proposal will generate

Item 3

between 4 and 6 additional traffic movements per day. This increase is not considered unreasonable, given the zoning of the site for medium density purposes.

Council's Development Engineer has assessed the submitted plans and traffic report and does not object to the development on the grounds of access, parking or traffic. Sufficient provision is made for resident and visitor parking and the increase in traffic generation is consistent with the zoning of the site.

Overdevelopment of the site

The submission claims that the height of the development is excessive and the scale of the development is unsympathetic to the surrounding pattern of low density development.

It is also claimed that the development will reduce the quiet amenity currently enjoyed by residents of Winton Street.

Comment:

The rezoning of the site to Residential 2(d3) allows development of a residential flat building to a maximum height of 3 storeys and building footprint of 35% pursuant to LEP 194. The intent of the rezoning for multi-unit development is to establish high density living within proximity of public transport and associated services (retail, community etc).

The proposed development is consistent with the medium density zoning of the site. The proposal has been amended to fully comply with the requirements of LEP 194 and is largely compliant with the controls for medium density development in DCP 55. The proposal does not constitute an overdevelopment of the site.

Streetscape impact

The submission claims that the scale of the development is excessive and will adversely impact upon the unique, low density, treed character of Winton Street.

Comment:

The predominant character of Winton Street is of low density housing within a landscaped setting.

However, under LEP 194, the site has been rezoned to residential 2(d3) which anticipates the construction of a residential flat building.

The proposed development provides setbacks within which to provide landscaping to complement the landscaped streetscape in line with the desired future character of the area. The proposal complies fully with the provisions of LEP 194 in relation to density, height, deep soil zones and generally complies with the provisions of DCP 55 in relation to setbacks, landscaping and built form/articulation. The proposed building relates acceptably to the surrounding area and desired future character/streetscape anticipated for the residential 2(d3) zone.

Item 3

Adverse impacts of scale on adjoining properties

Objection was raised to the height of the building and location and size of balconies along the northern elevation. It was claimed that, given the height of the development, overlooking could occur and detrimentally affect the existing level of amenity, usability and privacy of the rear garden areas of the northern adjoining dwellings.

Comment:

This concern has been raised by residents located in the adjoining Residential 2(c2) zone to the north of the site.

By virtue of the height of the building and location of balconies along the upper level, there is potential for privacy impacts to the north. However, the development is of a scale and bulk anticipated for the site under LEP 194 and privacy amelioration measures have been incorporated in the design of the building (discussed under DCP 55 assessment).

Clause 25L(2) of LEP 194 requires the third floor of the proposed building to be set back at least 9 metres from 'any boundary of the site of the building with land (other than a road) that is not within Zone 2(d3)' so as to provide a transition in scale between residential densities. The proposed development has been amended to comply with the 9 metres setback along the second (third) floor from the adjoining 2(c2) zone.

Two existing trees, T22 (Ginkgo, located on the northern adjoining property) and T27 (Bay Tree, located on the northern boundary of the subject site) are proposed to be retained along the northern boundary, between the development and the rear open space area of the northern adjoining dwelling. These trees have a height of 14 and 9 metres, respectively, with dense canopies. These trees provide screening between properties, preventing direct overlooking from upper levels across to northern properties. It is recommended that these trees be retained to maintain screening. Additional planting achieving a height of 5-9 metres is also proposed along the northern boundary within the side setback area.

Bedroom and bathroom levels are oriented to the north on the first floor. Given that these are not living areas and have small windows, privacy impacts will not be unreasonable. The proposed second floor has been set back the required 9 metres from the boundary. Privacy impacts from second floor balcony areas are prevented by the proposed planter boxes with planting above proposed around the periphery.

Economic impacts

It is claimed that the development impacts on property values in the area, in that the proposal will detract from the streetscape and amenity of existing single dwelling houses within the adjoining Residential 2(c2) zone to the north.

Item 3

Comment:

The impact of the development proposals on local property values is not a consideration under Section 79C of the Environmental Planning and Assessment Act, 1979.

CONSULTATION - OUTSIDE COUNCIL

The applicant has submitted advice from Energy Australia in relation to the development on 14 June 2005. Energy Australia will not require the installation of conduits along the footway. Supply to the development will be via overhead mains in Winton Street. An electrical substation will not be required for the development.

CONSULTATION - WITHIN COUNCIL

Urban Design Consultant

Council's Urban design consultant, Mr Russell Ollsson, made the following assessment of the proposal against SEPP 65 (Design Quality of Residential Flat Buildings):

Principle 1: Context

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

Comment:

The context is comprised of a residential 2(c2) zone to the north of the site which currently contains detached houses, a 2(d3) zone to the west and across Winton Street to the east, on, the corner of Pacific Highway.

Tall trees in front and rear garden of houses and in the public domain provide a substantially landscaped setting for the development.

The development provides insufficient transition between the 2(c2) zone and this site as it only sets back the third floor 7.5 metres from the property boundary, rather than 9 metres as required by LEP 194. It is recommended that the top floor is set back an additional 1.5 metres from the northern boundary to create a 9 metre setback. The front setbacks of 10m-12m are acceptable. They are predominately deep soil, allowing for tree planting to reinforce the existing landscape setting.

The development relates reasonably well to its built context, due to the effective 2 storey building height, with the third storey being set back from the lower level facades. This makes an appropriate transition to the adjoining houses. The corner is given a slight, and appropriate, emphasis with the addition of a pitched roof on the corner of the building.

Item 3

Principle 2: Scale

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

Comment:

The scale is appropriate due to the building height and the setback for the third floor from the lower floors, except for the need to further set back the top floor from the northern boundary.

Principle 3: Built Form

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

Comment:

The building setbacks from the street frontages are acceptable, as they area highly articulated facades setback between 10m and 12m from the boundary. The setbacks from the side boundaries have parts of the building only 3m from the boundary. The proposed parts of the building which are 3m from the boundary have blank walls and therefore do not create an issue of privacy, except for the kitchen window in Apartment 1. It is recommended that the west facing kitchen window in apartment 1 is deleted.

The greatest privacy problems are created by the level 2 and 3 decks for Apartments 7, 8, and 10, which view down into the side windows and yard of the 2 storey house to the north of the site at No. 28 Winton Street. It is recommended that the bedroom deck in Apartment 8 is deleted and the living room deck in apartment 8 is provided with a privacy screen on its northern edge.

No substantial landscape screening has been provided on the northern side of Apartment 7. It is recommended that dense screen planting is provided along the northern boundary, opposite the balcony of Apartment 7, in front of the existing window in the house at 28 Winton Street and opposite the back yard of No. 28, in the north-western corner of the subject site. This planting should be over two storeys high and consist of closely spaced evergreen trees.

It is recommended that the part of the northern deck for Apartment 10 which is opposite the kitchen and projects out to the north, is made inaccessible, so that overlooking into the neighbours property to the north is minimised.

Principle 4: Density

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

Item 3

Comment:

The building site cover is 35%, the building height is 3 storeys (as the site area is <1800m²) and the deep soil area is 50% of the site area. The density of the proposal will be reduced if the top floor configuration remains and the setback from the northern boundary is increased by 1.5m.

Principle 5: Resource, energy and water efficiency

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

Comment:

The environmental design is acceptable, as

- *Over 80% of the apartment living rooms and balconies receive more than 3 hours sunlight in mid-winter.*
- *All the apartments are cross ventilated.*

Principle 6: Landscape

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

Comment:

The screen landscaping is inadequate along the northern boundary of the property, as described above.

Principle 7: Amenity

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

Comment:

The amenity of the apartments is generally good, due to good solar access, ventilation and efficient planning. The privacy to the neighbouring property to the north is poor, and changes are to be made as recommended above.

Principle 8: Safety and Security

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

Item 3

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

Comment:

Safety and security is not perceived to be an issue in this development.

Principle 9: Social Dimensions

SEPP 65: Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities. New developments should optimize the provision of housing to suit the social mix and needs in the neighbourhood, or, in the case of precincts undergoing transition, provide for the desired future community.

Comment:

The apartment mix is appropriate.

Principle 10: Aesthetics

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

Comment:

The building is well articulated and proportioned. The window openings are well composed and horizontal sunscreens provided. The roof form creates an appropriate corner emphasis to the site.

Conclusion and recommendations

It is recommended that:

- *The top floor is set back an additional 1.5m from the northern boundary to create a 9m setback, in accordance with LEP 194.*
- *The west facing kitchen window in Apartment 1 is deleted.*
- *The bedroom deck in Apartment 8 is deleted and the living room deck in apartment is provided with a privacy screen on its northern boundary opposite the balcony of apartment 7, in from of the existing window in the house at 28 Winton Street and opposite the back yard of No. 28 Winton Street, in the north-western corner of the subject site.*
- *The part of the northern deck for Apartment 10, which is opposite the kitchen and projects out to the north, is made inaccessible, so that overlooking into the neighbours property to the north is minimised.*

Item 3

The applicant has amended the development, setting the second storey back to comply with the required 9 metres zone interface setback control.

It is not considered necessary for the kitchen window of Apartment 1 to be deleted, given the proposed fence and landscaping along the western boundary screening view between properties.

In relation to balcony modifications, the largest, most useable sections of the deck of Apartment 10 are oriented so as not to directly overlook the rear open space of the north facing properties. Furthermore, 1.2 metres high planter boxes containing dense shrubs are recommended along the periphery of the balcony areas. Accordingly, direct sightlines will not be achievable (refer **Condition No. 2**). Privacy impacts are not considered unreasonable.

Landscaping

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

Deep Soil

By the applicant's calculations the proposed development will result in 50% (795sqm) being deep soil landscape area.

Drainage Plan

Landscape Services raises no objections to the proposed drainage works as indicated on the Storm Water management Plan submitted with the application.

Setbacks

The proposed building will have a minimum 3.0m setback from the northern (zone interface) site boundary, which complies with DCP55 setback requirements for buildings of three storey's or less. It must be noted that the minimal setback does not allow for tree planting as per LEP194 objectives that is in scale with the development, Cl25(D)2(c), particularly in conjunction with side pedestrian access and basement stairs. As a result no tree planting is proposed within the northern side setback for 2/3 of the building length. It will be conditioned for small trees to be planted in this area, and the deletion of the proposed pedestrian path.

Landscape Plan

Subject to some design changes, which can be conditioned the landscape plan can be supported.

The proposal complies with the deep soil landscaping requirement provided in LEP 194, the landscape concept plan is supported, subject to some conditions amending the plan.

Item 3

Subject to the deletion of the pathway along adjacent the pathway, sufficient area is provided within the setback to provide screen planting. The landscape plan shall be amended to contain appropriate screen trees along this boundary (refer to **Condition No. 77**).

Engineering

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

The application is supported subject to conditions.

Stormwater management

The plans submitted do not indicate compliance with DCP 47 in that a 5000 litre retention storage tank for irrigation is shown, whereas DCP 47 requires 10 000 litres of retention storage and re-use inside the building for toilet flushing and clothes washing as well as irrigation. The Statement of Environmental Effects avoids reference to DCP 47 and acknowledges that the proposed water re-use is limited (page 20).

Because the ultimate discharge of stormwater to the street drainage system appears to be feasible, this has not been raised as an issue during the assessment, but is addressed in the recommended conditions. A BASIX assessment of the development eg using water saving fixtures, may indicate that a score of 40% can be achieved in other ways. This is allowed for, in which case the installation of the fittings would then be required by condition.

The on site detention tank is shown as draining into a new kerb inlet pit downstream of the driveway crossing. The estimated depth of the pit is given as about 1.5 metres. No investigation of the existing system appears to have been carried out so this depth is just a guess on the part of the designing engineer. It is possible that the pipe in the road reserve may need to be lowered to receive runoff from this development. The extent of works required will have to be determined before the issue of the Construction Certificate, and Council will have to give approval under the Roads Act. Because of the lack of information, substantial expense may be incurred on the applicant's part, for example if a box culvert is required due to insufficient cover available.

There are two grated inlet pits on the Pacific Highway frontage of the site, and a low point approximately in line with the boundary with 1407 Pacific Highway. It appears from the large concrete pit in the Winton Street nature strip that the underground piped drainage system is within the road reserve, but there is a minor chance that a pipe runs along or near the western site boundary. Conditions have been included which require work to stop and further investigations to be carried out if any piped system are uncovered during the work. The catchment for the westernmost pit is small, being only the Highway road pavement, so no overland flow issues are likely.

Waste collection

Internal waste collection is required under DCP 40 since the number of units exceeds 6. A waste storage area is shown in the basement car park which is accessible by the small waste

Item 3

collection vehicle. A security grille is shown on the plans and the Statement of Environmental Effects states "A concealed button will allow for 24 hour access to the secure basement". Council's Manager of Waste Services has advised that a single action button would be acceptable provided it is in an accessible position. The recommended conditions include this requirement.

Traffic generation

The development is calculated to generate between 4 and 6 vehicle trips per peak hour. This is a very low traffic generation and is not expected to impact traffic flows in Winton Street or the performance of the intersection with the Pacific Highway.

Vehicular access and parking

The traffic report states that access is to be via the existing vehicular crossing. However, the architectural basement plan shows a new crossing 3.5 metres from the boundary with 2B Winton Street. The level at the boundary is at approximately the existing ground level, so the construction of a new standard layback and vehicular crossing should be possible. As discussed below, the transition to the neighbour's crossing will have to be carefully detailed.

Under LEP 194, the development requires 13 resident and 3 visitor spaces. Eighteen spaces are provided, which complies, however only two of those are designated as visitor parking. One additional visitor space is to be allocated. This is included in the recommended conditions.

The layout of the basement car park appears to be satisfactory, although manoeuvring from space 2 seems a bit tight.

Construction management

A detailed Construction and Traffic Management Plan will be required prior to the commencement of works. Winton Street is not expected to be subject to parking related to Warrawee Public School, and due to the relatively small scale of this development, a prohibition on construction traffic movements during school drop-off and pick-up has not been recommended.

Council infrastructure

The new driveway crossing is proposed to be over an existing small drainage pit, with a new pit shown on the drawings, required to facilitate gravity drainage from the on site detention tank. At present the property shares a gutter bridge crossing with 2B Winton Street. The provision of access to the development, transition from kerb and gutter to table drain and the treatment of the existing crossing and pit will need to be carefully detailed. Engineering drawings will need to be submitted for Council's approval under the Roads Act. This can be done prior to issue of a Construction Certificate. Separate conditions will be applied to such an approval.

Item 3

Geotechnical investigation

The site is underlain by residual clay to about 2 metres depth underlain by extremely weathered shale to below basement level. Because of the existing low level of the property, excavation of only 2 to 3 metres is required. The excavation is not expected to require substantial effort, and the risk of vibration-induced damage to nearby structures is very low, however it would be prudent for a dilapidation survey to be carried out on the residence at 2B Winton Street and the brick wall along the northern boundary with that property, which retains approximately 0.6m of soil on the subject site.

The geotechnical report provides a choice for the support of excavated faces between batters and anchored soldier piles. If rock anchors are used, and given the recommended length of 7 metres, they will extend outside the property boundaries, and possibly into the Pacific Highway road reserve. Conditions are recommended which describe the procedure for obtaining approval for such anchors.

The investigation did not indicate a groundwater table within the depth of excavation. Normal subsoil drainage measures will be undertaken in conjunction with the excavation and retention works.

Refer to **Conditions No. 31-49, 65-75, 82-90 and 99-114** in the recommendation.

STATUTORY PROVISIONS

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

SEPP 65 aims to improve the design quality of residential flat building across New South Wales and provide an assessment framework and design code for assessing 'good design'.

Part 3 of the SEPP institutes a 'design review panel' to provide an independent, open and professional review of designs submitted to councils for approval.

Part 2 sets out design principles against which design review panels and consent authorities may evaluate the merits of a design. As a design review panel has not yet been constituted, the application has been referred to an independent urban design consultant, Russell Ollsson of Ollsson Architects for comments under SEPP 65 (refer to comments above).

The proposal is assessed against the heads of consideration as follows:

Principle 1 -Context:

Good design responds and contributes to its context which is defined by existing built and natural features and 'desirable elements' attributed to an area.

Item 3

The site is on the corner of the Pacific Highway and Winton Street which ends with a cul-de-sac (north) where it adjoins a state rail reserve (North Shore Railway line). Winton Street is relatively narrow street, lined with large, dense liquid amber trees, which form the predominant streetscape feature. The eastern and western sides of the street are occupied by large, generally single storey, dwellings set well back from the street and surrounded by gardens. With the exception of the primary school, located directly opposite the site, development along the Pacific Highway is of a similar low density residential character.

Due to its interface with zone 2(c2) and site area, the proposal is subject to height and setback restrictions under LEP 194. The top (third) floor is set back 9 metres from the boundary to comply with Council's setback under LEP 194. The proposal is generally consistent with the guidelines of DCP 55 in relation to building design, articulation and form. The proposal provides an acceptable design response to a small, corner, interface site and preserves the predominately landscaped character of the Municipality, consistent with Principle 1 of SEPP 65.

Principle 2 - Scale:

The scale of new development should suit the scale of the street and surrounding development and should be in keeping with the 'desired future character of the area'.

The following heads of consideration are contained within LEP 194 in relation to the desired future character of residential zones: setbacks which allow for deep soil landscaping, tree protection, replenishment of locally endemic species, building separation, minimal impact of car parking on the streetscape and the preservation of solar access, safety in the public domain and accessible housing.

The proposal is consistent with LEP 194 in relation to building setbacks, site cover, height, deep soil landscaping and building separation. The development is also compliant with DCP controls in relation to floor space ratio, architectural design, articulation and landscaping. The scale, siting and design of the development accords with the above heads of consideration area and is consistent with Principle 2 of SEPP 65.

Principle 3 - Built form:

Design should be appropriate for a site and the purpose of a building. Building alignment, proportions, types and elements should define the public domain, contribute to visual character and provide internal amenity and outlook.

Refer to comments by Council's Urban Design Consultant and DCP 55. The building complies with the built form and articulation guidelines of DCP 55. Tall trees and landscaping are proposed surrounding the development which will effectively screen its built form. The proposal is appropriate to the visual character of the area and the desired character of the Residential 2(d3) zone and provides good internal amenity and outlook for future occupants.

Principle 4 - Density:

Density (including floor space and number of dwellings) should be appropriate for a site and context. Densities should be sustainable and in precincts undergoing transition, should be

Item 3

consistent with the stated desired future density, responding in a regional context based upon availability of services.

The proposal is consistent with the applicable density controls (site coverage and floor space ratio). Refer to discussion of LEP 194 and DCP 55.

Principle 5 - Resource, Energy and Water Efficiency:

Refer to comments from Development Engineer and Urban Design Consultant and assessment against DCP 55. The proposal has been considered acceptable with respect to sustainability and resource availability.

Principle 6 - Landscape:

Landscape and buildings should operate as integrated and sustainable systems resulting in 'greater aesthetic quality' and amenity for occupants and the public domain. Landscape should build on the sites' natural and cultural features provide habitat for local biodiversity and fit the development within its context.

Landscaping should optimise useability, benefits to neighbours and provide for long term management.

Clause 25I(2) of LEP 194 provides a minimum standard for 40% deep soil landscaping. DCP 55 also contains specific requirements in relation to the location, composition and design of deep soil landscaping so as to integrate multi-unit housing with the existing, unique character of Ku-ring-gai.

The proposal provides deep soil zones to comply with LEP 194 Clause 25I(2) (minimum standards for deep soil landscaping). Council's Landscape Development Officer has assessed the submitted landscape plan. Subject to conditions, the concept meets the objectives of DCP 55 and integrates the built form appropriately within a landscaped setting and maintains consistency with the surrounding landscape. The landscaping proposed improves the streetscape and protects the privacy and visual amenity of surrounding properties. The landscape surrounds provide interest and amenity for future occupants and the proposal is satisfactory against Principle 6 of SEPP 65.

Principle 7 - Amenity:

Good design provides amenity through the physical, spatial and environmental quality of a development through room dimensions and shapes, solar access, ventilation, privacy, storage, indoor and outdoor space, outlook and access.

DCP 55 contains specific development objectives and guidelines for achieving a high level of residential amenity. Controls include minimum bedroom dimensions, sunlight and ventilation, minimum courtyard/balcony areas, ceiling heights and orientation. The proposal provides a high level of residential amenity as detailed in the discussion of DCP 55.

Item 3

Principle 8 - Safety and security:

Good design optimises safety and security both internally and externally by maximising overlooking to public areas and allowing passive surveillance.

Refer to design controls and considerations in relation safety and security under Clause 4.6 of DCP 55 and Principle 8 of SEPP 65. The development addresses the street, provides amenity, landscaping within the streetscape and connection to the street. The development promotes passive surveillance, safety and security.

Principle 9 - Social dimensions:

Development should respond to lifestyles, affordability and local community needs, providing a mixture of housing choices.

Refer to detailed discussion of 'Social Dimensions' under Clause 4.7 of DCP 55. The proposal provides a variety of housing choices for a mixture of income levels, family structures and accessibility levels and is consistent with both SEPP 65 and DCP 55 in this regard.

Principle 10 - Aesthetics:

Composition of building elements, textures, materials and colours should reflect the use of the development, its environment and desirable elements of the streetscape. Aesthetics of a building should contribute to the desired future character of areas undergoing transition.

An assessment of the aesthetics of the design and it's consistency with the design principles of SEPP 65 has been made by Council's Urban Design Consultant. The proposal conforms to Clause 25L of LEP 194 with respect to setback and separation. The building has been modified to provide sufficient separation. The development is appropriate in density and scale and provides opportunity within setback areas for deep soil/tall tree/screen planting. The proposal is consistent with the desired future character of the area as specified by LEP 194 and DCP 55 and is acceptable in relation to aesthetics.

Residential Flat Design Code

Relating to the local context:

As detailed above, the proposal provides setbacks to comply with the Council's streetscape and landscaping objectives and provides an appropriate transition between zones. The proposal is consistent with desired future character of locality as discussed in detail under the provisions of SEPP 65 and DCP 55.

Site analysis:

An appropriate site analysis was submitted indicating building edges, landscape response, access and parking and building performance.

Item 3

In terms of site configuration, the proposal provides acceptable separation from the two street boundaries for the establishment of significant landscaping in accordance with Council's objectives and controls.

The development adjoins an interface zone to the north. The proposal has been modified to provide the required 9 metres setback from the adjoining zone 2(c2) property. The siting and orientation of the development is considered to allow adequate privacy or visual amenity for the adjoining Residential 2(c2) zone, subject to conditions.

No detail is provided in the site analysis as to the room/window layout of the northern adjoining dwelling. However, sufficient physical separation is provided. Subject to the provision of landscaping along the boundary as recommended through **Condition No. 48**, the privacy of this dwelling can effectively be maintained.

The merits of the application with respect to stormwater management, access and privacy are discussed elsewhere within this report.

Building design:

The development provides suitable residential amenity for future occupants in compliance with SEPP 65 and DCP 55 and is inconsistent with Council's guidelines relating to building design, articulation, setbacks and scale. The development relates well to the streetscape or the desired future character.

All other relevant matters relating to building design are assessed elsewhere in this report.

State Environmental Planning Policy No 55 - Remediation of Land

SEPP 55 requires Council to consider the development history of a site and its potential for containing contaminated material.

The subject site has historically been used for residential purposes and is unlikely to be affected by contamination.

Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River

SREP 20 applies to land within the catchment of the Hawkesbury Nepean River. The general aim of the plan is to ensure that development and future land uses within the catchment are considered in a regional context. The plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

The development has the potential to impact on water quality and volumes to the catchment. Subject to conditions, the development is unlikely to generate significant additional stormwater and is consistent with the provisions of SREP 20.

Item 3

Ku-ring-gai Planning Scheme Ordinance (KPSO)

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 1200m ²	1589m ²	YES
Deep landscaping (min): 40%	50%	YES
Street frontage (min): 23m	39.5m (Winton Street) 46.433m (Pacific Highway)	YES
Number of storeys (max): 3 storeys	3 storeys	YES
Site coverage (max): 35%	33%	YES
Top floor area (max): 60% of level below	58%	YES
Storeys and ceiling height (max): 3 storeys and 7.2m	3 storeys & 6.7m	YES
Car parking spaces (min):		
• 3 (visitors)	3	YES
• 13 (residents)	13	YES
• 16 (total)	16	YES
Zone interface setback (min): 9m	9m	YES
Manegeable housing (min): 1 per 10 dwellings (10%)	10% (1 unit)	YES
Lift access: required if greater than three storeys	Lift access available	YES

Site area (cl.25E):

Clause 25E stipulates that consent may be granted for the purpose of a residential flat building, if the land has an area of at least 1,200m². The site measures 1,589m² and is satisfactory for the development of a residential flat building.

Deep landscaping (cl.25I(2)):

Clause 25I(2) provides a minimum standards for deep soil landscaping. For multi unit housing, deep soil landscaping with a minimum width of 2 metres is to be provided. 40% deep soil landscaping is required for a site of less than 1,800m² in area. The development provides 795m², 50% deep soil landscaping and comfortably complies.

Site frontages (cl.25I(3)):

Clause 25I(3) sets a minimum street frontage of 23 metres for a site measuring 1,200m² or more but less than 1,800m².

The site has two street frontages, 39.5 metres to Winton Street and 46.33 metres to Pacific Highway and complies.

Item 3

Number of storeys (cl.25I(5)):

Clause 25I(5) stipulates a maximum number of three (3) storeys for a development site measuring less than 1,800m². The site measures 1,589m² and the development proposed has a height of three storeys.

Site coverage (cl.25I(6)):

Clause 25I(6) stipulates a maximum site coverage of 35% for a residential flat building. The site coverage proposed is 33% and complies.

Top floor (cl.25I(7)):

Where the maximum number of storeys permitted is attained, then the floor area of the top storey of a residential flat building of three storeys or more is not to exceed 60% of the total floor area of the of the storey immediately below it. The proposal complies with the third storey measuring 58% of the floor below.

Storeys and ceiling height (cl.25I(8)):

Clause 25I(8) sets a maximum perimeter ceiling height in addition to the maximum number of storeys of 7.2m. The maximum perimeter ceiling height for the development is 6.7 metres (not including top storey) which complies.

Car parking (cl.25J):

Pursuant to Clause 25I(10), consent must not be granted to development that will result in more than one dwelling on a site unless:

- (a) at least one car space is provided per dwelling and, if the site is not within 400 metres of a pedestrian entry to a railway station, one additional car space is provided for each dwelling with 3 or more bedrooms, and
- (b) at least one additional visitor car space is provided for every 4 dwelling, or part thereof, that will be on the site.

Car parking is not to be open air parking.

The site is located further than 400 metres (850 metres) from the pedestrian entry to Warrawee Railway Station. The 7 proposed 2 bedroom units require one 1 parking space per dwelling and the 3 proposed 3 bedroom units require 2 parking spaces each. A total of 13 resident and 3 visitor spaces are required for the development. Car parking is provided as part of the development in accordance with the LEP requirements (refer to the Compliance Table). The proposal therefore complies with Clause 25J.

Item 3

Zone interface (cl.25L):

The third and four storey of any building on land within Zone 2(d3) must be set back at least 9 metres from any boundary of the site of the building with land (other than a road) that is not within Zone 2(d3).

The objective of the Zone interface controls is to provide a transition in the scale of buildings between certain zones.

The proposed development has been modified to comply. The third floor of the development is now located 9 metres from the northern boundary which adjoins a residential 2(c2) zone.

Manageable housing (cl.25N(2)):

Manageable housing should be provided to increase the housing choice for seniors and people with disabilities and to encourage ageing in place.

Clause 25N(2) stipulates that consent must not be granted to development for the purpose of multi-unit housing in Zone 2(d3) unless at least one dwelling comprises manageable housing for each 10 dwellings (or part thereof) and wheelchair access is provided to all dwellings comprising manageable housing.

One dwelling, Unit No. 3 comprises manageable housing and the proposal therefore complies.

Lift access (cl.25N(3)):

A lift must be provided in all multi-unit housing of more than 3 habitable storeys in Zone 2(d3).

The building does not exceed three storeys in height, however lift access is nevertheless provided.

POLICY PROVISIONS

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		
Part 4.1 Landscape design:		
Deep soil landscaping (min) • 150m ² per 1000m ² of site area = 238m ²	795m ²	YES
No. of tall trees required (min): 4.5 trees	23 trees	YES

Item 3

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 4.2 Density:		
Building footprint (max): <ul style="list-style-type: none"> 35% of total site area 	35%	YES
Floor space ratio (max): <ul style="list-style-type: none"> 0.7:1 	0.7:1	YES
Part 4.3 Setbacks:		
Street boundary setback (min): <ul style="list-style-type: none"> 10-12 metres Pacific Highway(<40% of the zone occupied by building footprint) 13-15 metres Winton Street 	<p>Between 5-12m and 50% occupied by the building footprint</p> <p>Between 9-10m</p>	<p>NO</p> <p>NO</p>
Rear boundary setback (min): West <ul style="list-style-type: none"> 6m 	Basement and ground level: 3-5.5m	NO
Side boundary setback (min): North <ul style="list-style-type: none"> 3-6m 	Basement and ground level: 2-3m	NO
Setback of ground floor courtyards to street boundary (min): <ul style="list-style-type: none"> 8m/11m 	7.5m	NO
% of total area of front setback occupied by private courtyards (max): <ul style="list-style-type: none"> 15% 	9%	YES
Part 4.4 Built form and articulation:		
Façade articulation: <ul style="list-style-type: none"> Wall plane depth >600mm Wall plane area <81m² 	<p>>600mm</p> <p><81m²</p>	<p>YES</p> <p>YES</p>
Built form: <ul style="list-style-type: none"> Building width < 36m Balcony projection < 1.2m 	<p>27m to Winton Street</p> <p>34m to Pacific Highway</p> <p><1.2m</p>	<p>YES</p> <p>YES</p>

Item 3

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 4.5 Residential amenity		
Solar access: <ul style="list-style-type: none"> • >70% of units receive 3+ hours direct sunlight in winter solstice • >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice • <15% of the total units are single aspect with a western orientation 	<p>90%</p> <p>50%</p> <p>No single aspect units</p>	<p>YES</p> <p>YES</p> <p>YES</p>
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 3 <ul style="list-style-type: none"> • 12m b/w habitable rooms • 9m b/w habitable and non-habitable rooms • 6m b/w non-habitable rooms 	<p>6-12m</p> <p>5-9m</p> <p>5-9m</p>	<p>NO</p> <p>NO</p> <p>NO</p>
Internal amenity: <ul style="list-style-type: none"> • Habitable rooms have a minimum floor to ceiling height of 2.7m • Non-habitable rooms have a minimum floor to ceiling height of 2.4m • 1-2 bedroom units have a minimum plan dimension of 3m in all bedroom • 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms 	<p>2.7m</p> <p>2.6m</p> <p>>3m</p> <p>>3m</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>

Item 3

COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> Single corridors: <ul style="list-style-type: none"> - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies 	<p>3 units</p> <p>2m</p> <p>2.2m</p>	<p>YES</p> <p>YES</p> <p>YES</p>
Outdoor living: <ul style="list-style-type: none"> ground floor apartments have a terrace or private courtyard greater than 25m² in area Balcony sizes: <ul style="list-style-type: none"> - 12m² – 2 bedroom unit - 15m² – 3 bedroom unit <p>NB. At least one space >10m²</p> <ul style="list-style-type: none"> primary outdoor space has a minimum dimension of 2.4m 	<p>Unit 1, Unit 2, Unit 3, Unit 4, Unit 5, all in excess of 25m²</p> <p>n/a</p> <p>Unit 3: 45m², Unit 4: 57m², Unit 5: 30m², Unit 6: 24m², Unit 7: 15m², Unit 8: 18m², Unit 9: 70m²</p> <p>Unit 1: 65 m², Unit 2: 35 m², Unit 10: 136m²</p> <p>>2.4m</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
Part 4.7 Social dimensions:		
Visitable units (min): <ul style="list-style-type: none"> 70% 	100%	YES
Housing mix: <ul style="list-style-type: none"> Mix of sizes and types 	Mix of 2 and 3 bedroom units	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency: <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation single aspect units are to have a maximum depth of 10m 25% of kitchens are to have an external wall for natural ventilation and light >90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating 	<p>100%</p> <p>No single aspect units</p> <p>100%</p> <p>4.5 star tar rating =20%</p> <p>3.5 star rating = 80%</p> <p>All units average rating of 3.5 stars</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>NO</p> <p>YES</p>

Item 3

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 5 Parking and vehicular access:		
Car parking (min):		
• 13 resident spaces	13 spaces (including one accessible)	YES
• 3 visitor spaces	3 spaces (including one accessible)	YES
• 16 total spaces	16 spaces	YES

Part 2: Elements of good design

Part 2 of DCP 55 contains broad guidelines and controls relating to appropriate design for Ku-ring-gai.

Elements relate to the integration of a building with the local area and the scale, articulation and presentation of a building within the streetscape.

A building should provide a clear identity for the street. Entries should be located to relate to the street and should be clearly identifiable from the public domain.

Materials should respond to the existing pattern of building construction characteristic of the area such as dark or red brick, timber or copper. Buildings set well back from the street should be surrounded by a dense tree canopy. Lift overruns and mechanical equipment should be integrated in the design.

The building is 3 storeys in height, stepped back along the Pacific Highway and located behind tall canopy trees and shrubs. The construction of the building is a combination of brown face brick with some sections rendered in a cream/beige colour. The roof is tiled with terracotta tiles. Windows are aluminium framed and balustrades satin finish stainless steel.

The sandstone wall proposed along the street boundaries is reminiscent of traditional fencing along the Pacific Highway. The materials proposed are consistent with the surrounding streetscape and the desired future character of the area. The development provides a clear identity within the street, behind a landscaped setting and is considered to be of good design.

Part 3 Local context:

Development should be consistent with the stated desired future character of the residential 2(d3) zone and not detract from the existing character of adjoining/surrounding areas.

LEP 194 Clause 25 contains objectives in relation to the desired future character of the area including: to encourage the protection and enhancement of the environmental and heritage qualities of Ku-ring-gai, preserve biodiversity, preserve and replenish the existing tree canopy, protect natural watercourses and topographical features and achieve high quality architectural and urban design. Development should have regard to heritage items within the vicinity.

Item 3

No.'s 2, 6, 7 and 14 Winton Street are listed in Schedule 7 of the KPSO. The development does not directly adjoin any heritage item and is not located opposite any heritage item. The development will not adversely impact upon the presentation of heritage items located further north along Winton Street. The development references traditional building materials and landscape features.

Part 4.1 Landscape design:

Development should reinforce the landscaped and 'treed' character of the area. Deep soil planting is to be established surrounding built form to increase visual amenity, screening and to maintain consistency with the surrounding garden dominated, leafy landscape.

The proposal complies with the numerical requirements of the LEP and DCP in relation to the ratio of built form to deep soil landscaping and tree replenishment provided. The LEP requires 40% of the site area to be available for deep soil planting and 50% is proposed.

The landscape plan submitted includes some elements which, by LEP definition, cannot be technically included in the calculation of deep soil planting (paths, water feature, benches). However, sufficient setback is provided surrounding the building footprint for deep soil landscaping and these elements provide interest and residential amenity.

Council's Landscape Development Officer has assessed the landscape concept submitted and subject to **Conditions No. 49-59, 90-94 and 114-117**, the proposed landscape is acceptable. The planting proposed integrates the development with the surrounding area and provides screening for adjoining properties.

The landscape plan incorporates the provision of 1.2 metres high planter boxes containing shrubs to provide additional privacy screening. The proposed shrubs achieve a mature growth height to up to 2 metres. Landscape measures proposed increase visual and residential amenity and screening in accordance with DCP 55.

Part 4.2 Density:

Site density should be balanced with the need to provide appropriate deep soil landscaping on a site. The proposed development complies with the 0.7:1 floor space ratio control, 35% site coverage standard and 40% deep soil landscaping standard, achieving the optimum capacity of the site within a landscaped context.

Part 4.3 Setbacks:

Buildings should not intrude upon the streetscape or unreasonably affect solar access and privacy available to adjoining dwellings. Buildings should be set within a landscaped curtilage.

Street setbacks

Clause 4.3 C-2 of DCP 55 prescribes that, where a site has a depth of more than 45 metres and a width of more than 35 metres, a front setback zone of 13 to 15 metres from that boundary shall apply unless the site fronts the Pacific Highway.

Item 3

Clause C-1 (b) street boundary setbacks of 10-12 metres shall apply to the Pacific Highway boundary.

The setback of a building extends above and below ground, including all built elements such as basement car parking (C-3).

The development has primary pedestrian and vehicular access and addresses the Winton Street frontage, which is considered to be the front/street boundary. A second street frontage is provided adjacent the Pacific Highway. The site measures 39.5 metres in width and 46.4 metres in length, with a required setback of between 13-15 metres along Winton Street.

At ground floor level, the building is set back between 9.5 and 12 metres from the Pacific Highway and does not consistently comply. The development is set back 10 metres from Winton Street at basement level. Despite the non-compliance, adequate deep soil zones are available to provide tall tree planting within the Winton Street setback. Furthermore, the building is considered to be well articulated and will not adversely impact upon the streetscape.

The proposal achieves a setback along the Pacific Highway frontage above ground level varying between 10 and 12 metres. No more than 40% of this setback is occupied by the building footprint and the proposal complies. At basement level, the footprint of the development is staggered and achieves a setback of 4 metres at the narrowest point up to 14 metres to the west of the site. An average setback of 10 metres is provided along this frontage which allows for tall tree planting and provision of common open spaces and landscape features along this frontage. The southern elevation of the building, visible behind landscaping, is well articulated and will not intrude on the Pacific Highway streetscape.

The courtyards to ground floor Apartments 3 and 4 within the Pacific Highway frontage encroach by up to 7.5 metres from the boundary (for 30% of the length of the frontage). The setback of the building footprint is acceptable for providing landscaping and visual relief along the Pacific Highway frontage and the breach is considered minor and acceptable.

Side and rear setbacks

A development should generally be set back 6 metres from the side and rear boundaries.

However, under Clause C-1 (b) the side setback for buildings 3 storeys or less on sites less than 1800m² may be reduced based on merit, to 3 metres or 6 metres where windows are located in habitable rooms.

North side, common with No. 2b Winton Street (zoned Residential 2(c2))

At ground level, courtyards associated with Apartments 1, 2 and 3 are located 3 metres from the boundary. The building footprint is generally set back 6 metres from the boundary with the exception of Apartments 1 and 5 which have sections of the living room located 3 metres from the

Item 3

boundary. In order to prevent visual and acoustic privacy conflicts between the properties, these elements are not provided with window or door openings.

The first floor plan has been designed with bathroom and bedroom windows oriented north. These rooms are not living areas and privacy impacts are unlikely. A glazed screen is provided along the edge of the deck area proposed for Apartment 7 which faces north. This will minimise both visual and acoustic privacy impacts. No window or door opening is proposed for the north-facing living area of Apartment 8 and the deck to this apartment is oriented toward Winton Street.

Continuous lines of Powderpuff lilies and three Narrow leafed Geebung trees are proposed along the northern boundary of the site for screening. These species grow to a height of between 3 to 5 metres and will be effective screening privacy between the ground and first floors of the development and the adjoining properties to the north. A large tree existing to the rear of this property identified as a Gingko is 14 metres tall with a dense canopy spread. This provides immediate privacy screening between the properties.

Despite the non-compliance, the proposal is considered to be acceptable on merit for the following reasons.

- The second floor (third storey) of the proposal complies with the LEP 194 requirement that a development be set back 9 metres from a zone interface.
- The floor plan of the building and location of windows, doors and balconies (detailed above) has been designed to minimise visual and acoustic privacy impacts to the north. Screening measures have been incorporated as part of the design and, where possible, balcony areas have been oriented away from the northern property.
- Landscape plan LP 02 (revision A) indicates the provision of 1.2 metres high planter boxes containing a mixture of Lillypilli varieties which achieve a mature height of between 0.8 and 2 metres along the northern and western edges of the proposed second floor balcony. This planting will effectively prevent direct sightlines across to adjoining properties, preventing privacy impacts. This element of the design is re-enforced by recommended **Condition No. 2**.

West side, common with No. 1407 Pacific Highway (zoned Residential 2(d3))

At basement level, the proposal achieves a setback of 3 metres and at ground level, a relatively small section of the building (6.5 metres in length) is set back 3 metres which does not comply with the side setback requirement of 6 metres under DCP 55.

The kitchen and dining room of Apartment 1 are located along the western elevation at ground level. No window or door opening is provided to the dining room and a small window is provided to the kitchen. Given that boundary fencing and landscaping is proposed along the western boundary, this will prevent direct view to the adjoining property from this window.

No west-facing window openings or balconies are proposed at first floor level.

Item 3

At second floor level, it is proposed to provide planter box/shrub screening along the west-facing section of the balcony area located off Apartment 10. As a result, direct overlooking or privacy impacts will not result. Sufficient separation is provided and the development is consistent with objectives of Clause 4.3.

Part 4.4 Built form and articulation:

Part 4.4 contains design guidelines to prevent buildings visually impacting on the public domain and dominating the streetscape and to control the separation and landscaping between buildings.

Soft landscaped features should be evident within the streetscape and building elements should be integrated into the overall building form.

The following specific guidelines apply in the assessment of the articulation of a building:

- Facades to the public domain should be articulated by wall planes varying in depth by not less than 600mm;
- No single wall plane should exceed 81m² in area and the width of a single building on any street facing elevation should not exceed 36 metres;
- Balconies should not project more than 1.2 metres from the outermost building façade;
- Service elements should not be visible and should be integrated into the design of the roof;
- Unit arrangements are to respond to site opportunities and constraints.

Soft landscaped features will dominate the Pacific Highway and Winton Street frontages of the site. The design of the building complies with the recommendations of DCP 55 in relation to architectural design and relief. The development is considered to appropriately address both street frontages and unit arrangements are considered to provide adequate orientation, accessibility, amenity and thermal performance.

Part 4.5 Residential amenity:

Building layouts, orientation and provision of outdoor space and landscaping should maximise internal and external amenity for occupants.

DCP 55 contains technical requirements relating to availability of space, storage, solar access, natural solar ventilation, visual and acoustic privacy and outdoor living.

Refer to above comment. The proposal is consistent with the requirements of DCP 55 in relation to dwelling design and residential amenity.

The setback of the building generally allows for adequate separation between habitable and non-habitable areas of the adjoining property. The floor plan and location of window openings along the northern elevation of the building has been designed sensitively, to prevent undue amenity impacts between properties.

Item 3

Shadow diagrams have been submitted with the application. The diagrams indicate that mid-winter shadow will generally extend over the Pacific Highway setback and beyond, the southern common open space area and a small portion of the front (Winton Street) setback. The shadow does not adversely affect the amenity of any adjoining properties or the amenity of the building and is consistent with DCP 55.

Part 4.6 Safety and security:

Refer to discussion of SEPP 65, Principle 8 'Safety and Security'.

Apartments adjacent to public streets are required to have at least one window or a habitable room with an outlook to that area. Entries and common open space should be visible from public areas or apartments and lighting should be provided to increase visibility.

Two pedestrian pathways are provided for the development; one within the front/Winton Street setback and one along the Pacific Highway setback. The pedestrian pathways are clearly visible, with unimpeded sightlines, and will be provided with lighting. The approach to the building is considered to be visible and adequate passive surveillance is provided in the form of windows and balconies. Resident basement parking areas are afforded internal lift access, providing safe access to units.

All of the common open space areas are able to be overlooked by apartments, with no concealed or entrapment areas. The development is consistent with Clause 4.6.

Part 4.7 Social dimensions:

Refer to discussion of *SEPP 65 Principle 9: Social Dimensions*.

As indicated in the *Compliance Tables*, the proposed provides 10% 'manageable' units in accordance with LEP 194 Clause 25N and 70% 'visitable' units, internal paths of travel and visitor and resident parking spaces in accordance with DCP55 Clause 4.7 C-3.

The development provides a flexible mix of housing types and a suitable variety of unit sizes to meet market demand for a range of medium density accommodation needs.

Part 4.8 Resource, energy and water efficiency:

The development achieves an average NatHERS rating of 3.5 stars however does not provide 90% with a 4.5 star rating. The units range from between 3 stars and 5 stars. No unit is single aspect, and overall, the development provides for good solar access, light and ventilation.

Part 5 Parking and vehicular access:

Refer to Compliance Table.

Car spaces for resident, visitor and accessible are provided in accordance with the numerical requirements of DCP 55 and DCP 43 -Car Parking.

Item 3

Part 6 Isolated sites:

The proposal does not have the effect of isolating or compromising the development potential of any surrounding sites.

Development Control Plan 31 - Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against DCP 55.

Development Control Plan 40 - Construction and Demolition Waste Management

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against DCP 55.

Development Control Plan No 43 - Car Parking

Matters for assessment under DCP 43 have been taken into account in the assessment of this application against DCP 55.

Development Control Plan 47 - Water Management

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

Section 94 Plan

The development attracts a section 94 contribution of \$118,103.14 based on 2 'large' dwellings, 8 'medium' dwellings and a credit of the existing 'extra large' dwelling. This contribution is required to be paid by **Condition No. 64**.

LIKELY IMPACTS

The likely impacts of the development have been discussed elsewhere within this report.

SUITABILITY OF THE SITE

The site is suitable for the development proposed.

ANY SUBMISSIONS

Submissions have been addressed within the discussion of the applicable above.

Item 3

PUBLIC INTEREST

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

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for assessment.

CONCLUSION

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

RECOMMENDATION:

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

THAT the Council, as the consent authority, grant development consent to DA 706/05 for demolition of an existing dwellings and construction of a residential flat building and basement car park on land at 1405 Pacific Highway Warrawee, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL

1. The development must be carried out in accordance with plans numbered DA1B, DA2A, DA3A, DA4B, DA5B, DA6A, DA7A, dated 25 October 2005, drawn by Barry Rush and Associates, and Landscape Plan LP01 and LP02 dated 22 June 2005 drawn by Patio Design and endorsed with Council's approval stamp, except where amended by the following conditions:
2. In order to protect the privacy of northern adjoining properties, the screening measures (glazed screens and landscaped planter boxes) shall be provided to apartments 7 and 10 as indicated on plan DA03 and landscaping plan LP02 (revision A).
3. All building works shall comply with the Building Code of Australia.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
5. 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 3

6. 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.
7. 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.
8. 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.
9. **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.
10. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
11. 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.
12. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
13. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a. must preserve and protect the building from damage, and
 - b. if necessary, must underpin and support the building in an approved manner, and
 - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner

Item 3

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.

14. With regard to the proposed rock breaking the following conditions are to be observed:
 - a. The Geotechnical Engineer shall supervise the works in progress.
 - b. A dilapidation report on adjoining or nearby properties shall be prepared prior to any excavation, rock breaking, or associated work commencing and shall be submitted to the Principal Certifying Authority.
 - c. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
 - d. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
15. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.
16. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
17. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
18. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
19. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body

Item 3

for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

20. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
21. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
 - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
22. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
23. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
24. 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.
25. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
26. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
27. The fence and footings shall be constructed entirely within the boundaries of the property.

Item 3

28. Fire hoses are to be maintained on site during the course of demolition.
29. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
30. 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.
31. In the event of a pipeline being uncovered during construction, all work is to cease and the Principal Certifying Authority and Council must be contacted immediately for advice. Any damage caused to the Council pipe shall be immediately repaired in full and at no cost to Council.
32. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system in Winton Street, via the approved site stormwater management system.
33. A mandatory rainwater re-use tank system comprising stormwater tanks and rainwater tanks of minimum volume required in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. A mains top-up shall be provided for periods of low rainfall.

If a BASIX Certificate demonstrating a Water score of 40% is submitted to justify some other rainwater re-use regime, then the retention component of site water management is to be in accordance with those commitments.

34. In addition to the mandatory rainwater retention and re-use system provided, an **on-site stormwater detention** system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
35. For stormwater control, 200mm wide grated channel/trench drains with heavy-duty removable galvanised grates are to be strategically placed to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
36. A maintenance period of six (6) months shall apply to all works in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the

Item 3

manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.

37. Where required, the adjustment or additions of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
38. All public footways and accessways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 *"Traffic Control Devices for Work on Roads"*. **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
39. 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.
40. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking" as a minimum requirement.
41. For the purpose of any further plan assessment and works inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final sign-off from Council.
42. 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.
43. 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.

Item 3

Applicant shall refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

44. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
45. Geotechnical aspects of the development works, particularly excavation and retention must be undertaken in accordance with the recommendations of the Report on Geotechnical Investigation by Jeffery and Katauskas Consulting Engineers (refer report 19469SPrpt dated 3 June 2005) and recommendations made during subsequent construction stage inspections.
46. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
47. All demolition and construction traffic control and management measures shall be implemented in accordance with an approved *Construction and Traffic Management Plan* to be submitted and approved by Council prior to the commencement of works. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
48. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, if a security grille is to be provided with a concealed button to allow for 24 hour access to the secure basement, then a single action button may be provided in an accessible place and to the satisfaction of Council’s Manager Waste Services.
49. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
50. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the Arborist to the Principal Certifying Authority are required at the following times or phases of work; prior to demolition, at completion of demolition works, prior to excavation, at completion of excavation works, at monthly intervals during construction work, at the completion of building works and six months after the completion of all work on site.

Item 3

51. If tree roots are required to be severed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate
52. No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
#1 <i>Nyssa sylvatica</i> (Tupelo) Winton St nature strip	3.0m
#7 & 8 <i>Cupressus sempervirens</i> (Italian Cypress) Adjacent to south east site corner	3.0m
#9 <i>Eucalyptus scoparia</i> (WillowGum) Pacific Hwy nature strip	5.0m
#19 <i>Cupressus 'Bruniana Aurea'</i> (Golden Cypress) Adjacent to southern/Pacific Hwy site boundary	3.0m
#22 <i>Ginkgo biloba</i> (Maidenhair tree) Adjacent to northern site boundary in neighbouring property	5.0m
#27 <i>Lauris nobilis</i> (Bay tree) Adjacent to northern site boundary in neighbouring property	2.5m

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

Tree/Location	Radius From Trunk
#22 <i>Ginkgo biloba</i> (Maidenhair tree) Adjacent to northern site boundary in neighbouring property	5.0m
#27 <i>Lauris nobilis</i> (Bay tree) Adjacent to northern site boundary in neighbouring property	2.5m

54. Excavation for the installation of CONDUITS/SEWER/STORMWATER/GAS within the specified radius of the trunk/s of the following tree/s shall be carried out using the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground level to minimise damage to tree/s root system

Item 3

Tree/Location	Radius From Trunk
#1 <i>Nyssa sylvatica</i> (Tupelo) Winton St nature strip	3.0m
#22 <i>Ginkgo biloba</i> (Maidenhair tree) Adjacent to northern site boundary in neighbouring property	5.0m

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

56. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property as an evenly spaced avenue planting along the Pacific Hwy. The tree/s used shall be a minimum 25 litre container size specimen/s trees :

Tree Species	Quantity
<i>Eucalyptus saligna</i> (Bluegum)	4

57. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property as an evenly spaced avenue planting along Winton St. The tree/s used shall be a minimum 25 litre container size specimen/s trees :

Tree Species	Quantity
<i>Nyssa sylvatica</i> (Tupelo)	3

58. 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.
59. The trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

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

60. 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.

61. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of

Item 3

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).

62. 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.
63. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
64. 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 EIGHT (8) ADDITIONAL DWELLINGS IS CURRENTLY \$118,103.14. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at

Item 3

the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1. Community Facilities (If Seniors Living \$412.07)	\$1,117.76
2. Park Acquisition and Embellishment Works- Warrawee	\$4,723.00
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

65. A total of three visitor parking spaces are to be provided. This is to be clearly shown on the Construction Certificate plans.
66. Prior to issue of the Construction Certificate any security gate, grille or door shown on the DA plans, which would prevent unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, must be deleted from the plans to be approved with the Construction Certificate. Alternatively, if a security grille is shown on the plans with a concealed button for access to the basement, then the button is to be in an accessible position. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
67. Prior to issue of the Construction Certificate, a plan detailing services trenches in accordance with the relevant supply authorities (including electricity, gas, telephone, water and sewerage), shall be submitted for approval by the Principal Certifying Authority (PCA). The notice of requirements for Sydney Water must be obtained prior to issue of the Construction Certificate.
68. Prior to issue of the Construction Certificate the Applicant shall contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including cabling, need for substations or similar within

Item 3

the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate to the satisfaction of the PCA. The requirements of the utility provider shall be met in full prior to issue of the Occupation Certificate.

69. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossing between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.** The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

70. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
71. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property. The necessary plumbing components for re-use, including pumps and back up power supply in the event of blackout, shall be shown on these plans to a detail suitable for installation by the plumbing services contractors. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
72. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for the on-site stormwater retention system.

Item 3

The minimum storage volumes and designs shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), any manufacturers' specifications and the relevant plumbing codes. If a BASIX Certificate demonstrating a Water score of 40% is submitted to justify some other rainwater re-use regime, then the retention component of site water management is to be in accordance with those commitments. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. Permanent water quality measures are to be provided as required by Chapter 8 of DCP 47.

73. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47. New connection points to the Council drainage system must be shown accurately on the plan and shall be made in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004.
74. The Applicant must carry out the following infrastructure works in the Public Road:
 - remove the existing vehicular crossing and provide a suitable transition from the new crossing to the existing crossing to 2B Winton Street;
 - construct a new junction pit, kerb inlet pit and possibly lower the existing in-ground pipe or install a new 375mm pipe or appropriate conduit in the road reserve to gain fall for the discharge from the on site detention tank.

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*.

75. 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.

Item 3

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.

76. Paving works within the specified radius of the trunk/s of the following tree/s shall be of type and construction to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be prepared by a suitably qualified professional and submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate:

Tree/Location	Radius From Trunk
#27 <i>Laurus nobilis</i> (Bay Tree) Adjacent to northern site boundary in neighbouring property	3.0m
#1 <i>Nyssa sylvatica</i> (Tupelo) Winton St nature strip	3.0m

77. The submitted landscape plan LP01Rev A prepared by PATIO and dated 22/06/2005 is not approved. An amended, detailed plan of the proposed landscape works for the site shall be prepared by a Landscape Architect or qualified Landscape Designer. The plan must be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. The landscape works shall be carried out and installed in accordance with the approved landscape plan/s.

The following amendments to the plan shall apply:

- Tree numbering is to be consistent with the Arborists report
- Tree #1 *Nyssa sylvatica* (Tupelo) is to be retained.

Item 3

- The proposed pedestrian entry feature adjacent to the south east corner is to be deleted and the area maintained as soft landscape with the exception of a 1.0m wide pedestrian access path.
- Two Eucalyptus saligna (Bluegum) are to be planted in the south-eastern site corner.
- The proposed planting of Eucalyptus saligna (Bluegum) in Winton St is to be deleted and replaced with Nyssa sylvatica (Tupelo)
- A tall endemic tree species capable of attaining a minimum height of 13.0m is to be planted adjacent to the north east site corner.
- The proposed sandstone benches are to be located immediately adjacent to the proposed 1.0m wide pedestrian paths and the decomposed gravel area deleted and maintained as lawn or planted with appropriate low growing plant species.
- The proposed sandstone steppers within the courtyard of Unit 4 is to be deleted and the area fully planted out with appropriate shrub and groundcover species
- A minimum of four trees capable of attaining a minimum height of 6-8 metres are to be planted adjacent to the northern site boundary.
- A minimum of three trees capable of attaining a minimum height of 6-8 metres are to be planted adjacent to the western site boundary behind the building line.
- The proposed pedestrian footpath adjacent to the northern site boundary, adjacent to and to the west of the basement stairs is to be deleted and the area fully planted with screening shrubs and small trees.

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

Fifty percent (50%) of this bond will be refunded upon verification by Council that the landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after the initial satisfactory inspection, where landscape works have been satisfactorily established and maintained.

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

79. A CASH BOND/BANK GUARANTEE of \$4 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

In the event that any specified trees are found damaged, dying or dead as a result of any negligence by the applicant or its agent, or as a result of the construction works at any time

Item 3

during the construction period, Council will have the option to demand the whole or part therefore of the bond.

Tree/Location	Bond Value
#1 <i>Nyssa sylvatica</i> (Tupelo) Winton St nature strip	\$2,000.00
#9 <i>Eucalyptus scoparia</i> (Willow Gum) Pacific Hwy nature strip	\$2,000.00

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

80. 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.
81. 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.
82. To preserve and enhance the natural environment, earthworks and/or demolition of any existing buildings shall not commence until an Erosion and Sediment Control Plan (ESCP) is prepared, submitted to the Principal Certifying Authority, approved and implemented to the satisfaction of the Principal Certifying Authority. The plan shall comply with the guidelines set out in the NSW Department of Housing Manual "Managing Urban Stormwater: Soils and Construction" Certificate.
83. 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.
84. Prior to the commencement of any works on site the applicant shall submit to Council a full dilapidation report on the visible (including photos) and structural condition of the following public infrastructure:
 - Full road pavement width of Winton Street and southbound road pavement of Pacific Highway, both including kerb and gutter, over the site frontage, including the intersection.
 - All driveway crossings and laybacks in Winton Street opposite the subject site.
 - The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and in written format) existing damaged areas on the aforementioned infrastructure so that:
 - Council is fully informed when assessing any damage to public infrastructure caused as a result of the development, and Council is able to refund infrastructure damage bonds, in full or parts thereof, with accuracy. The developer may be held liable to all damage to

Item 3

public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works.

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

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

A plan view of the entire site and frontage roadways indicating:

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage any pedestrians and construction related vehicles in the frontage roadways,
- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of any Work Zones in the frontage roadways,
- Location of proposed crane standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles where possible

Traffic Control Plan(s) for the site

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

A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided

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

Item 3

- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
 - Minimising construction related traffic movements during school peak periods.
 - For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.
 - The *Construction and Traffic Management Plan* shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained and submitted to the Principal Certifying Authority prior to the commencement of any works on site. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation.
86. Prior to the commencement of any works on the site, the applicant shall submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of the residence and brick boundary wall at 2B Winton Street. The report must be completed by a consulting structural/geotechnical engineer. A second dilapidation report, recording structural conditions of all structures originally assessed prior to issue of the Construction Certificate, must be carried out at the completion of the works and be submitted to Council.
87. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.
88. If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council and/or the Roads and Traffic Authority in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all

Item 3

the work that is to be considered, and the works are not to commence until approval has been granted. The designs are to include details of the following:

- RTA concurrence to the proposed temporary rock anchors
- How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road
- That the locations of the rock anchors are registered with Dial Before You Dig
- That approval of all utility authorities likely to use the public road has been obtained. All temporary rock anchors are located outside the allocations for the various utilities as adopted by the Streets Opening Conference.
- That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or work in the public road.
- That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than 75mm high. The signs are to be at not more than 60m spacing. At least one sign must be visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

Permanent rock anchors are not to be used where any part of the anchor extends outside the development site into public areas or road reserves.

All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads Act 1993.

89. Approval is to be obtained from the property owner for any anchors proposed beneath adjoining private property. If such approval cannot be obtained, then the excavated faces are to be shored or propped in accordance with the recommendations of the geotechnical and structural engineers.
90. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
#1 <i>Nyssa sylvatica</i> (Tupelo) Winton St nature strip	3.0m
#7 & 8 <i>Cupressus sempervirens</i> (Italian Cypress) Adjacent to south east site corner	3.0m

Item 3

#19 *Cupressus 'Brunniana Aurea'* (Golden Cypress) 3.0m
Adjacent to southern/Pacific Hwy site boundary

91. 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.
92. Prior to works commencing tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign shall advise in a clearly legible form, the following minimum information:
 1. Tree Protection Zone
 2. This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.
 3. If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works
 4. Name, address, and telephone number of the developer/principal certifying authority.
93. Prior to works commencing the area of the Tree Protection Zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood, The depth of mulch and type as indicated, to be maintained for the duration of the project & Principal Certifying Authority.
94. Upon completion of the installation of the required tree protection measures you are required to arrange for an inspection of the site by the Principal Certifying Authority to verify that tree protection measures comply with all relevant conditions. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

95. 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.
96. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
97. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring, must be compiled in report format and submitted to the Principal Certifying Authority for approval.

Item 3

Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:

- Completion of the new driveway crossing in accordance with levels and specifications issued by Council.
 - Completion of all new drainage works in accordance with the Council-approved Roads Act plans.
 - Completion of all new footpath works in accordance with the Council approved *Roads Act* plans.
 - Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). 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.
 - Full repair and resealing of any road surface damaged during construction.
 - Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.
98. 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.
99. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
100. Prior to issue of an Occupation certificate the applicant is to submit to the Principal Certifying Authority documentary evidence of RTA and Council approval for the de-commissioning of any rock anchors which were installed in the Pacific Highway road reserve.
101. Prior to issue of an Occupation Certificate a suitably qualified consulting civil/hydraulic engineer is to provide engineering certification for approval by the Principal Certifying Authority (PCA). The certification is to make **specific reference** to each of the following aspects of the installed drainage and stormwater management measures:
- That construction of the stormwater drainage and management systems has been carried out by a contractor licensed to do so.
 - That all necessary Sydney Water approvals have been obtained for the domestic use of reticulated water.
 - That the as-built retention systems achieve the design storage volumes approved by the Principal Certifying Authority with the Construction Certificate (engineer must complete the form in the appendices of DCP47 in relation to the system).
 - The as-built drainage layout (including pits, pipes and ancillary plumbing) is in accordance with the relevant stormwater management and drainage plans approved by the Principal Certifying Authority with the Construction Certificate,

Item 3

- The overall as built drainage and stormwater management systems will achieve the discharge control intent of the approved construction plans and Councils Water Management DCP47.
102. Prior to issue of an Occupation Certificate the applicant shall submit a Works-as-Executed (WAE) drawing(s) to the Principal Certifying Authority in relation to the installed stormwater drainage and managements systems. These plans shall show:
- As built location and indicative internal dimensions of the retention structures on the property (plan view) and horizontal distances to nearest adjacent boundaries and buildings on site
 - As built locations of all access pits and grates in the retention systems, including dimensions.
 - The achieved capacity of the retention storages and derivative calculations.
 - Top water levels of storage areas and indicative RL's through the escape flow path in the event of blockage of system.
 - As built surface and invert levels for all drainage pits and junction points.
 - Gradients of drainage lines, materials and sizes.
 - As built level(s) at the approved point of discharge to the public drainage system.
 - The WAE(s) is to be prepared by a **registered surveyor** and shall show all critical constructed levels, materials and dimensions in comparison to those shown in the relevant designs approved by the Principal Certifying Authority with the Construction Certificate. All relevant details indicated must be denoted **in red** on the Principal Certifying Authority stamped construction certificate stormwater drawings. The plan shall not be prepared until final surfaces (such as landscaping) are laid.
103. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.
104. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
- A copy of the approved Construction Certificate stormwater drainage plans which show the retention systems.
 - A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management,
 - All Engineer's certifications specified in this consent.
 - This condition is required so Council may maintain its database of as-constructed on-site stormwater detention/retention systems, and also applies if the Principal Certifying Authority (PCA) is not the Council.
105. Prior to occupation or issue of an Occupation Certificate the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act

Item 3

1919, burdening the property with the requirement to maintain the on-site stormwater retention/ detention facilities on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88B instruments for protection of retention/ detention facilities - to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate. It is assumed that the legal instruments will transfer to any future subdivision plan at the time of registration.

106. Prior to issue of the Occupation Certificate an easement for waste collection must be provided. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection. It is assumed that the legal instruments will transfer to any future subdivision plan at the time of registration.
107. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include full dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that:
 - Vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 "Off-Street car parking"
 - Adequate headroom of 2.44 metres minimum is provided for access by Council's waste collection vehicle, and
 - No security doors, grilles or gates are provided which would prevent access to the garbage storage area by Council's waste collection vehicle, unless otherwise approved by Council's Manager Waste Services, in which case certification is to be provided that the access button is functioning.
108. Prior to issue of the Occupation Certificate the provision of separate underground electricity, gas, phone cable, sewer and water services shall be provided for the development in accordance with those utility providers. A suitably qualified and experienced engineer or surveyor is to provide certification to the Principal Certifying Authority that the development has ready underground access to the services of electricity, gas, phone cable, sewer and water. Alternatively a final compliance letter from the respective supply authorities may be supplied for approval.
109. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structures originally assessed at:
 - 2B Winton Street;

Item 3

- Road reserve and public infrastructure in Winton Street and Pacific Highway.

The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

110. Excavation for the installation of CONDUITS/SEWER/STORMWATER/GAS within the specified radius of the trunk/s of tree/s shall be carried out using the thrust boring method. Documentary evidence of compliance with conditions of consent in this regard shall be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.
111. Documentary evidence of compliance with the Arborist Report requirements shall be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.
112. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.
113. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.

BUILDING CONDITIONS

114. 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 & Air-conditioning.
 - 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.
115. 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

Item 3

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.

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

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

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.

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.

N Richter
Executive Assessment Officer

M Leotta
Team Leader
Development Assessment - North

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation

Item 3

Attachments: **Location plan - 548909**
 Zoning extract - 548911
 Architectural plans - 548907
 Landscape plans - 548905

LOCATION SKETCH

1405 Pacific Highway, WARRAWEE NSW



SCALE: 1:2500

DATE: 20-07-2005



SUBJECT LAND

• properties notified
 ✕ submissions received



Zoning Extract

1405 Pacific Hwy, Warrawee.



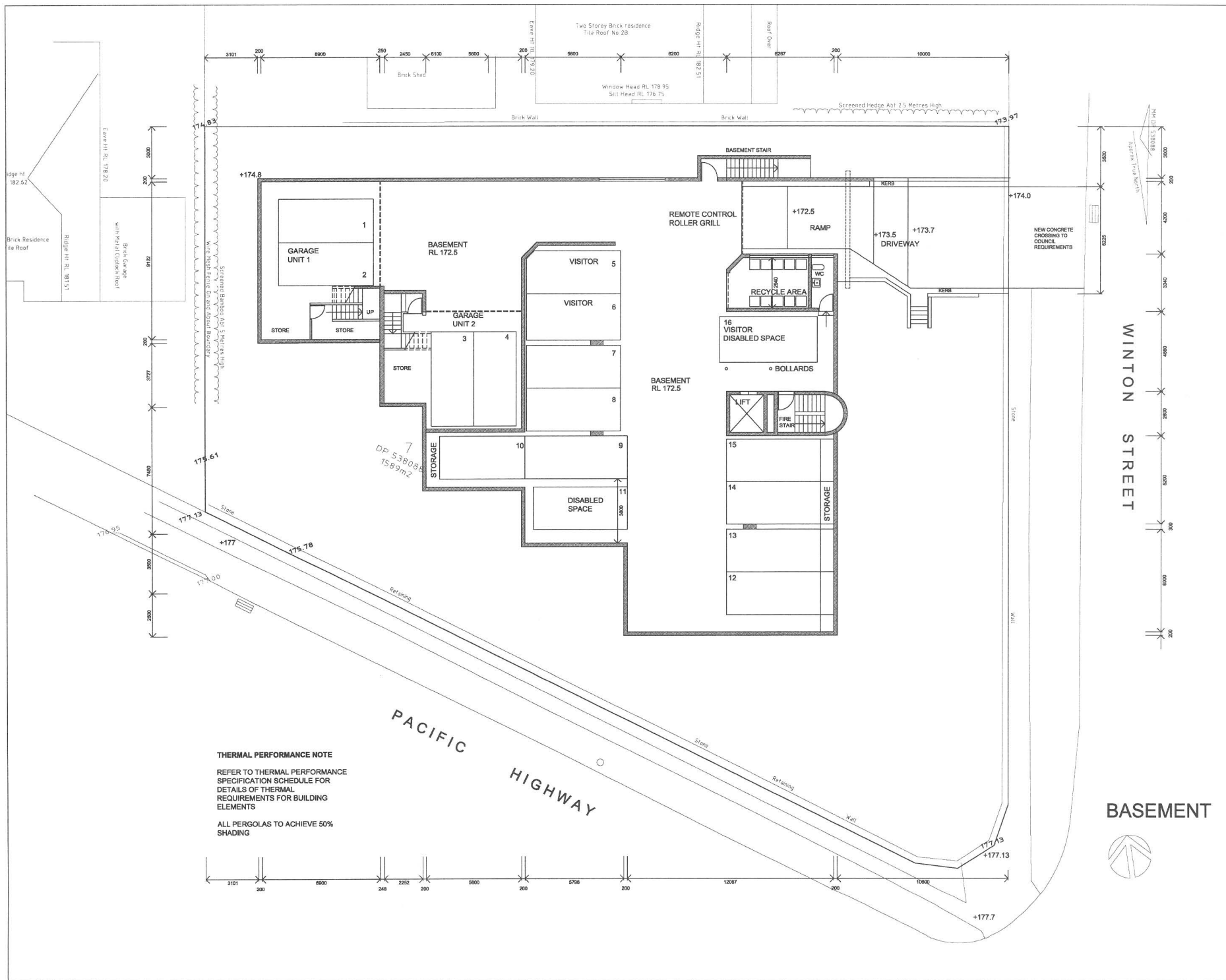
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- EXISTING COUNTY ROAD
- 2(c) RESIDENTIAL 2(c)
- 2(c2) RESIDENTIAL 2(c2)
- 2(d3) RESIDENTIAL 2(d3)
- SCH SPECIAL USES 5(a) (Schools etc)
- SPECIAL USES 5(b) (Railway)

□ Subject site





25/10/05 2 CARSPACES DELETED & RENUMBERED

18/05 A RECYCLE AREA AMENDED & DIMENSIONS ADDED FOR ACCESS REPORT

DATE AMENDMENTS



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Client

BOZORG, DANESHJOO & PARSANEJAD

Project
PROPOSED RESIDENTIAL DEVELOPMENT
1405 PACIFIC HIGHWAY WARRAWEE

Drawing
BASEMENT PLAN

Scale 1:100 Drawn BR

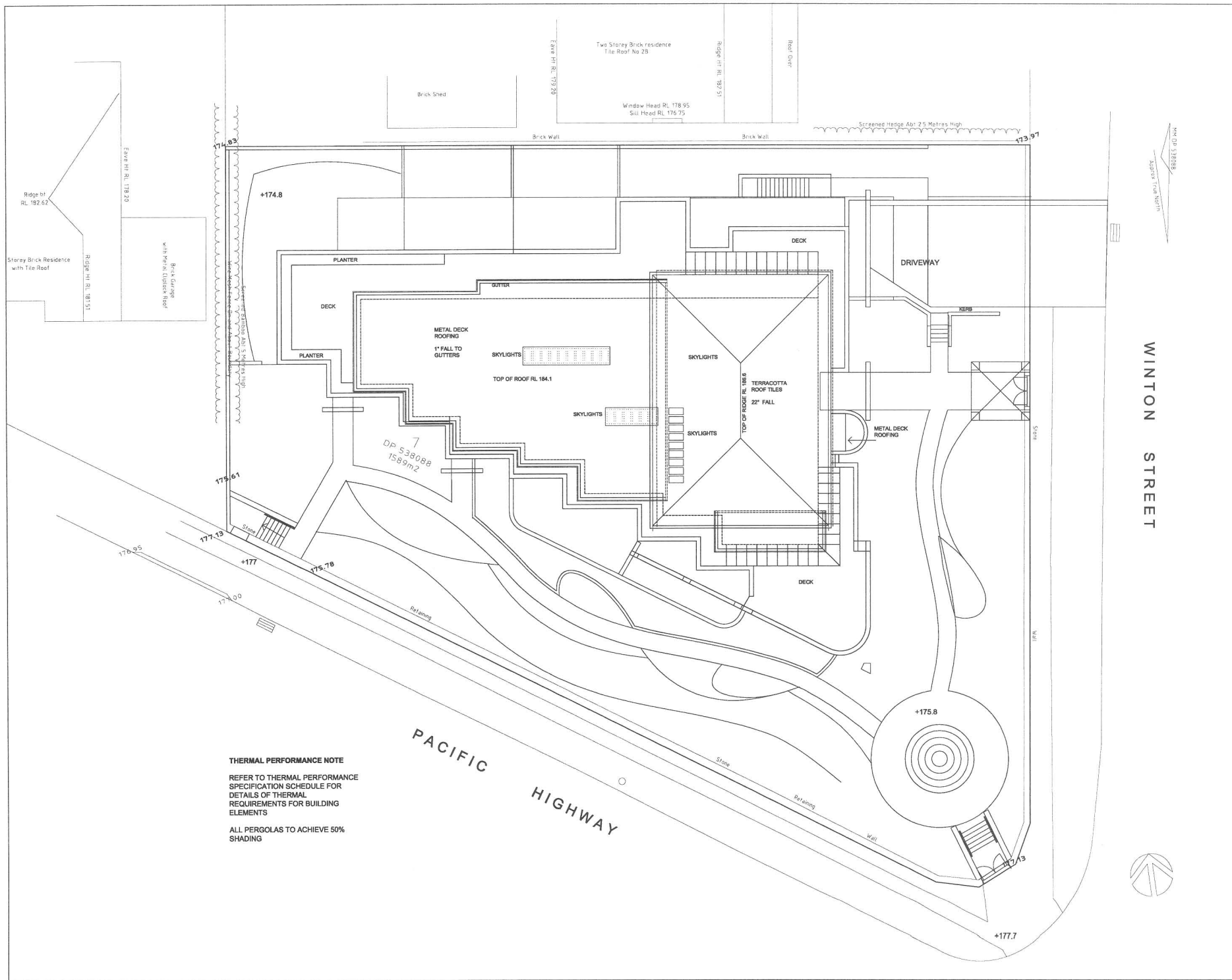
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Version DA Drawing No: **DA18**

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THERMAL PERFORMANCE NOTE
REFER TO THERMAL PERFORMANCE
SPECIFICATION SCHEDULE FOR
DETAILS OF THERMAL
REQUIREMENTS FOR BUILDING
ELEMENTS
ALL PERGOLAS TO ACHIEVE 50%
SHADING

WINTON STREET

PACIFIC HIGHWAY

25/10/05 A SETBACK TO NORTHERN BOUNDARY
INCREASED

DATE AMENDMENTS



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Client

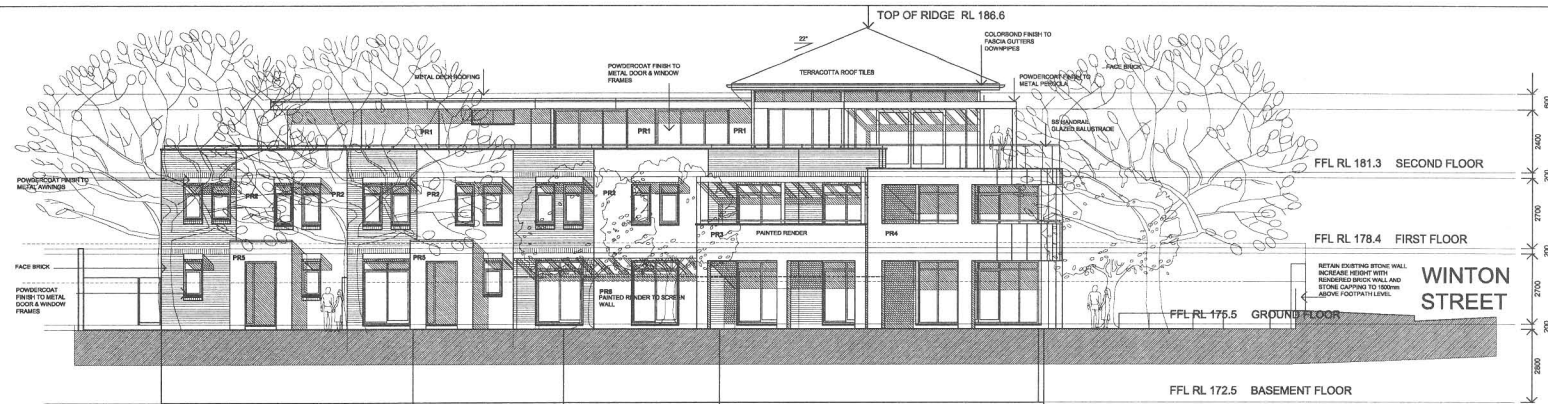
**BOZORG, DANESHJOO &
PARSANEJAD**

Project
**PROPOSED RESIDENTIAL
DEVELOPMENT
140/5 PACIFIC HIGHWAY
WARRABEE**

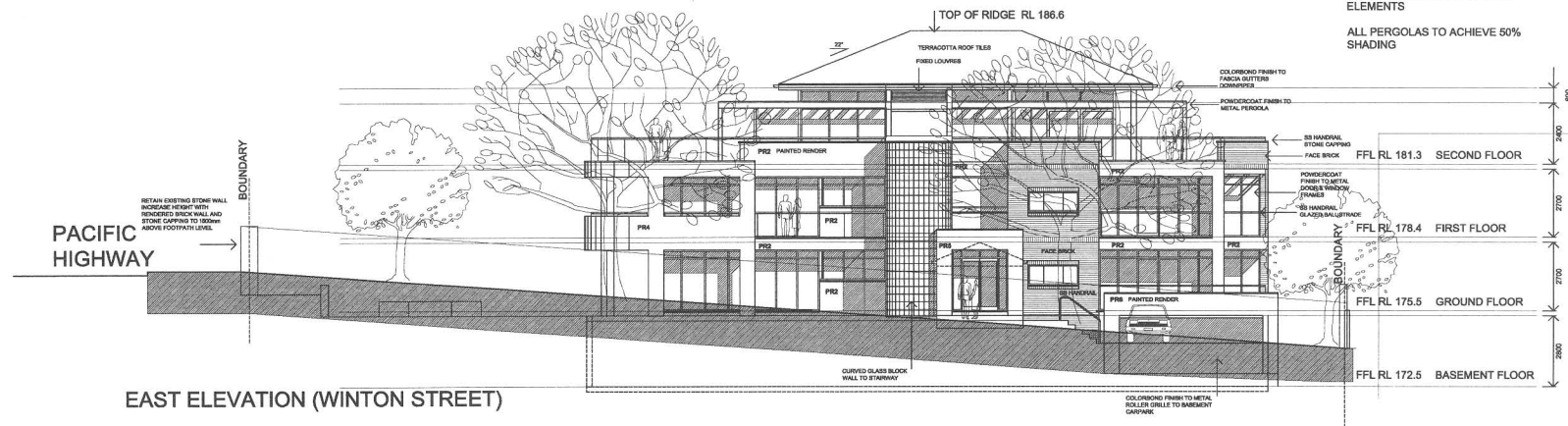
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ROOF PLAN

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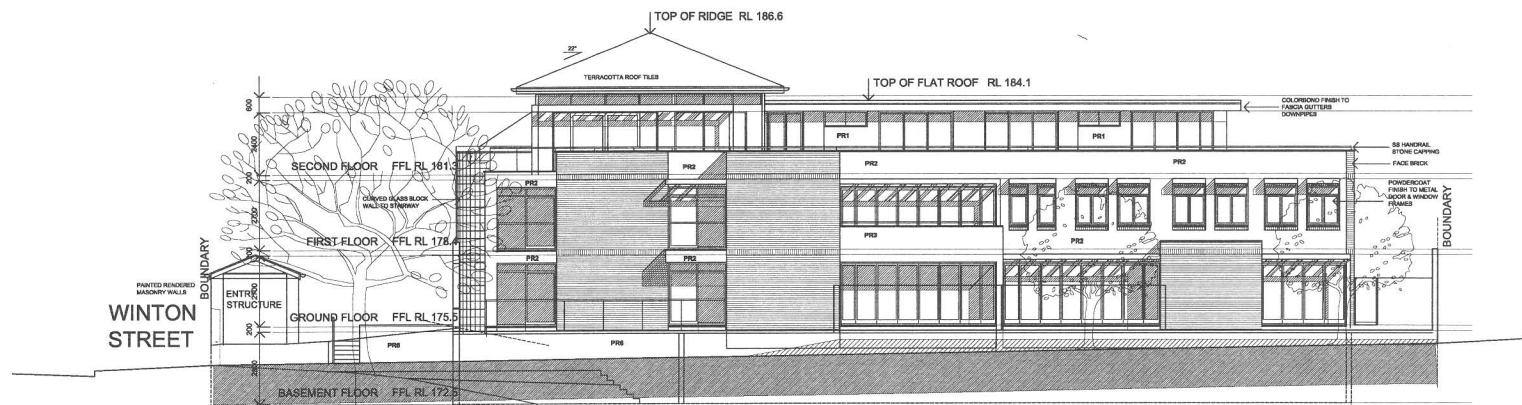
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SOUTH ELEVATION (PACIFIC HIGHWAY)



EAST ELEVATION (WINTON STREET)



NORTH ELEVATION

Thermal Performance Note

REFER TO THERMAL PERFORMANCE SPECIFICATION SCHEDULE FOR DETAILS OF THERMAL REQUIREMENTS FOR BUILDING ELEMENTS

ALL PERGOLAS TO ACHIEVE 50% SHADING

25/10/05 A SETBACK TO NORTHERN BOUNDARY INCREASED

DATE AMENDMENTS



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Client

BOZORG, DANESHJOO &
PARSANEJAD

Project
PROPOSED RESIDENTIAL
DEVELOPMENT
1405 PACIFIC HIGHWAY
WARRAWEE

Drawing
ELEVATIONS

Scale 1:100 Drawn BR

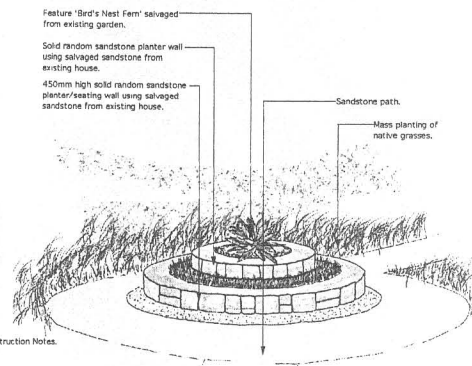
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Job No 0504

Version PRELIM Drawing No: DABA

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Verify all dimensions on site.



3 Entry Statement - indicative sketch
Scale: NTS

3 Typical 25L Tree - detail
LP02 Scale: 1:20

A	FOR COUNCIL APPROVAL	GM	22.06
A	FOR CLIENT REVIEW @ 50% completion	GM	09.06
(initials) (date) (if / attended)		by (checkbox) (date)	
Scale: 1:100 @ A1		Drawn: GM	Designed: GM
dwg no: LP 01 rev			

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Item 4

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	497 TO 507 PACIFIC HIGHWAY, KILLARA - DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING COMPRISING FORTY (40) UNITS, BASEMENT CARPARKING AND ASSOCIATED LANDSCAPING
WARD:	Gordon
DEVELOPMENT APPLICATION N^o:	651/05
SUBJECT LAND:	497 to 507 Pacific Highway, Killara
APPLICANT:	Killara Pacific Pty Ltd
OWNER:	C-H & S-H C Ko, S Donellan, Killara Pacific Pty Ltd
DESIGNER:	Wolski Lycenko & Brecknock Architects
PRESENT USE:	Residential
ZONING:	Residential 2 (d3)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO, DCP 40, DCP 43, DCP 47, DCP 55
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP 55, SEPP 65
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	24 June 2005
40 DAY PERIOD EXPIRED:	3 August 2005
PROPOSAL:	Demolition of existing structures and construction of a residential flat building comprising forty (40) units, basement carparking and associated landscaping
RECOMMENDATION:	Approval

Item 4

DEVELOPMENT APPLICATION N^o 651/05
PREMISES: 497-507 PACIFIC HIGHWAY, KILLARA
PROPOSAL: DEMOLITION OF EXISTING STRUCTURES
AND CONSTRUCTION OF A RESIDENTIAL
FLAT BUILDING COMPRISING FORTY (40)
UNITS, BASEMENT CARPARKING AND
ASSOCIATED LANDSCAPING
APPLICANT: KILLARA PACIFIC PTY LTD
OWNER: C-H & S-H C KO, S DONELLAN, KILLARA
PACIFIC PTY LTD
DESIGNER WOLSKI LYCENKO & BRECKNOCK
ARCHITECTS

PURPOSE FOR REPORT

To determine Development Application No. 651/05 which seeks consent for the demolition of existing structures, the construction of a residential flat building providing 40 dwellings, including basement parking and landscaping.

EXECUTIVE SUMMARY

Issues:	Setbacks, visual privacy
Submissions:	7 submissions
Pre-DA Consultation:	Yes
Land & Environment Court Appeal:	Not applicable
Recommendation:	Approval

HISTORY

Site History

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

Development application history

28 April 2005	Pre-development application meeting.
24 June 2005	Application lodged.
6 June 2005	Application is notified.
6 August 2005	Applicant requested to address concerns in respect of setbacks, energy efficiency, solar access and other design issues.
23 September 2005	Amended plans received.

THE SITE AND SURROUNDING DEVELOPMENT

Item 4

Zoning:	Residential 2 (d3)
Visual Character Study Category:	1920-45
Lot Number:	1 and 2, Lot A
DP Number:	874037 and 364354
Area:	2658m ²
Side of Street:	Eastern
Cross Fall:	3.4% north to south
Stormwater Drainage:	To Pacific Highway
Heritage Affected:	No
Required Setback:	10-12 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

THE SITE

Dimensions and topography

The site is rectangular in shape and has a total area of 2658m². The frontage to the Pacific Highway measures 47.6 metres. The north-eastern boundary is 45.7 metres, the south-eastern boundary 61 metres and the north-western boundary is approximately 62.6 metres in length.

The site is slightly elevated and is generally about 1 metre above the kerb level to Pacific Highway. The site slopes from the north to south at a grade of 3.4%.

Improvements

The site comprises three lots, containing two single storey dual occupancies (Nos 497 and 499 Pacific Highway) and a single storey dwelling house with a detached two storey garage in the rear yard at No. 507 Pacific Highway.

Vegetation

The site is characterised by an established landscape setting, with mature trees and shrubs within formal garden beds and grassed areas. The site frontage along the Pacific Highway is characterised by established informal screen planting on top of a low sandstone retaining wall.

Easements

The site is burdened by three easements, two of which relate to stormwater and access arrangements for the dual occupancies, the third is a stormwater easement traversing the site along its northern corner.

Zoning and surrounding use zones

Item 4

A zoning map is attached to this report. The site forms part of the Pacific Highway and railway corridor, an area that comprises low density residential development that was rezoned to Residential 2(d3) for multi-unit residential development under LEP 194. Both the adjoining properties to the north and south of the site are zoned Residential 2(d3).

With regard to “The Oaks” at No. 517 Pacific Highway (aka 1A Stanhope Road) adjoining to the north-west of the site, Council resolved at it’s meeting of 15 February 2005 to prepare a draft LEP to include it as an item in Schedule 7 of the KPSO and to apply for an Interim Heritage Order to protect it. Council prepared draft (Heritage Conservation) Local Environmental Plan No 32 and after public exhibition of the draft Plan finalised the draft plan. At it’s meeting of 19 July 2005 Council resolved:

That Council adopts Draft (Heritage Conservation) Local Environmental Plan No.32 “The Oaks” 517 Pacific Highway, Killara, and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with request that the Plan be made.

SURROUNDING DEVELOPMENT

Development application for a residential flat building (comprising 18 units) at Nos 2a and 2b Killara Avenue was refused by Council on 14 June 2005. The subsequent Land and Environment Court appeal was dismissed but, prior to the entering and perfecting of orders an application was made for leave for the applicant to amend its plans. It was the applicant’s intention to address those matters which had led to the dismissal of the appeal by submitting amended plans. On 8 September 2005 the Land and Environment Court directed the applicant to make an application for a review of Council’s decision pursuant to s82A of the Environmental Planning Act. This application will be reported to Council for determination in due course.

No. 1 Stanhope Road and No. 2 Killara Avenue constitute the north-eastern (rear) boundary and are zoned Residential 2(c2). This zoning does not permit new apartment buildings but allows for apartment conversions and dual occupancies.

THE PROPOSAL

The application entails the following:

- Demolition of existing dwellings and associated structures on site
- Construction of a 5 storey residential flat building of 40 units comprising 15 x 1 bedroom apartments, 18 x 2 bedroom apartments and 7 x 3-bedroom apartments
- A total of 71 parking spaces, consisting of 61 resident spaces and 10 visitor spaces over 2 basement levels
- Vehicular access from Pacific Highway
- Disposal of stormwater to Pacific Highway, incorporating a retention and detention system with water re-use for toilet flushing, laundries and irrigation

Item 4

The structures above and below ground are generally set back 10 to 12 metres from Pacific Highway. Side setbacks are in excess of 6 metres, while the rear setback is greater than 9 metres. Some private courtyards project into these setback areas.

The building comprises 5 levels with a 2 level basement car park. All units are accessible via two lift cores that are serviced by two entry foyers located at RL 124.5. The remaining floor levels are as follows:

Level 1	RL 127.5
Level 2	RL 130.5
Level 3	RL 133.5
Penthouse	RL 136.5

More than 400m² of communal open space is provided within the rear and side setbacks.

Amended plans dated 23 September 2005

Amendments to the original design entailed changing the roof form from a low pitch hipped roof to a single pitch skillion roof which reduced the overall height of the building by 1.2 metres. **Figure No. 1** illustrates the amended roof design.

Figure 1

The amended plans were not notified as the changes proposed therein would not have any greater impact on surrounding properties than the original proposal.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, adjoining owners were given notice of the application on 6 June 2005. In response, submissions from the following were received:

- | | | |
|----|--------------------|---------------------------|
| 1. | B Wexham | 1a Stanhope Road, Killara |
| 2. | LA & LR Mears | 3 Stanhope Road, Killara |
| 3. | KB & M Wing | 2 Killara Avenue, Killara |
| 4. | K & N Kwan | 3 Killara Avenue, Killara |
| 5. | JA & AC Macpherson | 4 Killara Avenue, Killara |
| 6. | SD James | 6 Killara Avenue, Killara |
| 7. | M Wyatt | PO Box 355, Killara |

The submissions raised the following issues:

Cumulative effect of the development on traffic and parking

The rezoning of this site under LEP 194 to permit medium density development confers a development potential pursuant to the development standards and controls set out in LEP 194 and DCP 55. In accordance with these statutory planning and policy controls, sites within the

Item 4

Residential 2(d3) zone have the potential to be developed for the purposes of residential flat buildings to a maximum height of five storeys and a footprint of 35% of the site area. The intent of rezoning for multi-unit development is to establish medium density living in proximity to transport nodes, educational and health facilities and local business centres.

The Traffic and Transport Base Study prepared for Council by Gutteridge Haskins & Davey Pty Ltd in 2000 formed the basis of Council's Residential Strategy. The report found that high density development along the Pacific Highway associated with the Targeted Sites under SEPP 53 and the Stage 1 Residential Development Strategy associated with LEP194 will place additional pressure and demand on Pacific Highway during peak traffic conditions. On various occasions prior to the gazettal of LEP 194 the Department of Infrastructure, Planning and Natural Resources (DIPNR) was advised on the findings of the study. It was also suggested by Council that DIPNR assess the level of improvements required to meet the expected traffic growth from urban consolidation.

Any cumulative impacts on residential character and density resultant from development of the subject site and similarly zoned allotments in accordance with LEP194 and DCP 55 provisions were therefore anticipated and have been provided for in the zoning. In addition, this application was referred to the RTA who raised no objection to the application, subject to standard conditions.

The proposal is therefore consistent with the objectives of SEPP 65, The Residential Flat Design Code, LEP194 and DCP 55 and will not result in a cumulative impact beyond that which is provided for under the zoning and associated controls that apply to the site.

Impact of excavation on adjoining properties

Based on the preliminary geotechnical report and location of excavations on this site, Council's Development Engineers are satisfied that the geotechnical and excavation/construction aspects of this proposal can be addressed through suitable conditions of consent. These conditions will require geotechnical and hydro-geological monitoring, excavation, construction and further professional geotechnical input as warranted. A condition is also recommended which will require ongoing investigation by a consulting geotechnical engineer, with action as appropriate. Dilapidation reports are to be completed on neighbouring properties and infrastructure (*See Conditions Nos 63, 64 and 113*).

Character, style and scale of development is not appropriate

In the absence of a Design Review Panel provided by SEPP 65, the application was referred to Council's Urban design Consultant, Russell Olsson. Mr. Olsson finds that the development proposal satisfactorily addresses all ten SEPP 65 Design Principles and he considers the design to be of an acceptable standard.

Excessive building length and height; general non-compliance with development standards and controls

Item 4

The amended plans changed the roof form from a low pitch hipped roof to a single pitch skillion roof which reduced the overall height of the building by 1.2 metres. **Figure No. 1** illustrates the amended roof design.

The development complies with all development standards in LEP 194 and complies with the majority of the controls DCP 55. Where the development does depart from some DCP 55 numeric standards, it is considered that the development still satisfies the objectives of these DCP controls, with the departures being minor in nature and indiscernible in the context. Areas of non-compliance are indicated in the DCP 55 compliance table and discussed in detail in Part No's 3.5, 4.2, 4.5 and 4.8 of this report.

Overshadowing

No overshadowing will occur between 9am and 3pm on adjoining properties except for Nos 2a and 2b Killara Avenue. However, these properties are the subject of a development application for a residential flat building comprising 18 units and no submissions were received from the owners.

DCP 55 makes a distinction between solar access requirements for single detached dwellings and other types of development. Clause 4.5 C-6 only refers to single detached homes (i.e. 3 hours direct sunlight on 21 June to habitable rooms and outdoor living areas of adjoining houses in Residential 2(c1) and 2 (c2) zones) and is silent on the amount of sunlight acceptable to other types of development.

The application is made under the KPSO and LEP 194, which include only the requirement that Council should take into account the amount of overshadowing likely to be caused by the proposal and ensure sunlight access to neighbours (Clauses 25D(k) and 25I(b)).

The Australia-wide resource document for residential development, AMCORD, suggests that a development should not reduce the sunlight received by the north-facing windows of living areas of neighbouring properties to less than 3 hours between 9am and 5pm at the winter solstice. The NSW-specific *Residential Flat Design Code*, which applies only to apartment buildings of three storeys and over, recommends 3 hours of sunlight to the living rooms and private open spaces of 70% of apartments between 9am and 3pm, reducing it to 2 hours in dense urban areas. The code does not specifically deal with the impact on sunlight received by neighbouring buildings, though one may assume that the same criteria should apply.

The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. At higher densities sunlight is harder to protect and the claim to retain it to the same level as low density development is not as strong. It is considered that no unreasonable overshadowing will occur to the adjoining properties (Nos 2a and 2b Killara Avenue) as the majority of the proposed units in that development will receive at least 2 hours of direct sunlight. It should be noted that, during the equinox, the amount of solar access provided to those units is further increased.

Overlooking

Item 4

This concern is raised by the owners to the north-west (No. 517 Pacific Highway aka 1A Stanhope Road) and the north-east (No. 1 Stanhope Road and No. 2 Killara Avenue). **Figure No. 2** shows the current setback to No. 517 Pacific Highway.

Due to it's draft heritage status, the setback to the dwelling at No. 517 Pacific Highway known as "The Oaks" (zoned Residential 2(d3)) is in the order of 12 to 14.5 metres. This level of physical separation together with the substantial landscaping proposed will ensure that privacy impacts are reduced and an adequate level of amenity is maintained.

The owners of No. 1 Stanhope Road and No. 2 Killara Avenue have raised concerns in respect of overlooking and the lack of an acceptable transition in scale.

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

LEP 194 requires that the third and fourth storey of any building on land zoned Residential 2(d3) is set back 9 metres from any boundary shared with land not within Zone 2(d3). In this case, the site adjoins No. 1 Stanhope Road and No. 2 Killara Avenue (both zoned Residential 2(c2)) and is set back at the third and fourth storeys 9 metres, accordingly. In addition to this, the remaining lower levels of the building have also been set back 9 metres which is 3metres in excess of the 6 metres requirement. Given that the intention of the zone interface control is to provide a transition in scale of buildings between certain zones, the development responds to the control appropriately and provides acceptable levels of transition to adjoining development.



Figure No. 2

Item 4

All north-east facing balconies are provided with sliding sunscreens which will provide some measure of privacy to the rear yards of the two adjoining properties. To reduce overlooking of the private open space and pool area of No. 2 Killara, a condition is recommended requiring a privacy screen to the north-eastern elevation of the terrace area (Unit No. 37); refer **Condition No. 96**. Existing vegetation on No. 1 Stanhope Road will minimise overlooking from the subject site and obviates the need for additional screening devices.

The development complies with the prescribed building envelope requirements of LEP194 and DCP 55, including height, site coverage, upper floor control and deep soil landscaping. To this end, the scale and bulk of the proposed development is anticipated for the area and compliance with relevant controls indicates appropriate transition in scale to adjoining development.

Loss of views from No. 517 Pacific Highway (1A Stanhope Road), Killara

The development is contained within the prescribed building envelope controls which apply to the site under LEP194. Therefore, the proposed building is of a scale and bulk anticipated for sites of this size that are zoned Residential 2(d3).

A number of other sites in the immediate vicinity of the subject site are also zoned for multi-unit residential development and this zoning will result in buildings of a similar scale, bulk and height being constructed.

In comparison to the existing structures on site, the proposed building will obstruct distant views to the city previously enjoyed by No. 517 Pacific Highway. However, the impact upon that view alone does not warrant the refusal of the application.

Proximity to heritage item

Council's Heritage Advisor, Paul Dignam, raised no concern with the proposed setbacks from the proposed heritage item "The Oaks" at 517 Pacific Highway and his comments in this regard are provided.

Inadequate visitor car spaces

The development proposes 10 visitor car spaces and is compliant with DCP 55 in this regard. Council's Development Engineer, Robin Howard, raised no objection to the proposal.

Size of private courtyards and height of courtyard wall are excessive

These concerns have merit and are addressed by a condition (refer **Condition No. 69**) which requires the maximum overall height of courtyard fences (including retaining walls) be limited to 1.8 metres above natural ground level. Courtyards along the north-eastern boundary are also required to be reduced in width by approximately 1.5 metres to ensure a larger amount of common open space area for screening and landscaping.

Demolition of garage structure at No. 507 Pacific Highway

Item 4

Council's Heritage Advisor raised no objection to the demolition of this structure and has addressed this issue in detail elsewhere in this report.

Insufficient information

The information submitted with the application is adequate for assessment purposes and complies with the provisions of Schedule 1 of the Environmental Planning and Assessment Regulation 2000. The site survey plan, photographs, arborist's report, architectural plans and other documents are utilised in the assessment of the application. This documentation is further augmented by site inspections and the Council's own GIS system.

CONSULTATION - WITHIN COUNCIL

Urban Design Consultant

Council's consultant Urban Design Consultant, Russell Olsson, commented on the original plans in the context of SEPP 65 and Residential Flat Design Code considerations as follows

Context

The built form context is comprised of a heritage item on the property adjoining the northern side boundary at 517 Pacific Highway, and detached houses adjoining the southern side boundary at 2a-2b Killara Avenue. These houses are within a 2 (d3) zone, and have the potential to be developed in the future (with a current DA proposal).

The sites to the east are zoned residential 2(c2) and a 9m transitional setback is provided between the different zones.

The proposed building is set back 15m from the adjoining heritage building, and complies in this respect with the DCP 55 heritage item setback control.

The heritage item is set within a dense landscape of large trees in the Pacific Highway setback.

The proposed building setback from the Pacific Highway is 12m (with 40% of the building length being set back greater than 10m). This complies with the generic setback controls in DCP 55, and in this context is sufficient setback to achieve a relatively consistent setback along the Pacific Highway, the heritage item and the potential 2 (d3) development at 2 - 2a Killara Avenue. The proposed landscaping within this setback will be sufficient to provide an acceptable landscape setting for the building.

Scale

The potential scale of development at 2-2a Killara Avenue is 3.6 storeys, and 4.6 storeys for this site. The first design submission for this site proposed a pitched roof. While the building

Item 4

heights of 3.6 storeys and 4.6 storeys are acceptable, the difference in building heights, the fall in the land and the original pitched roof combined to create a substantially taller building on the subject site. The revised design, with a low pitched roof, reduces the scale of the development a little and is acceptable.

Built form

The boundary setbacks are acceptable. The small courtyard on the southern side of the building will provide some visual relief to the future development at 2-2a Killara Avenue, and will slightly reduce the overshadowing impact of the proposal.

Density

The density is acceptable as it complies with the LEP 194 controls for site coverage and deep soil.

Resource, energy and water efficiency

The proposed building has greater than 70% of apartments achieving 3 hours sunlight to living rooms/balconies between 9am and 3pm in mid-winter. .\, and greater than 60% of apartments having natural cross ventilation. Building depths are 12m-13m glass to glass. The development has greater than 50% of the site deep soil. It therefore performs reasonably well in terms of SEPP 65 Residential Flat Design Code guidelines.

Landscape

The landscape is sufficiently well planted with a range of vegetation species and sizes to provide an acceptable landscape setting for the building.

Amenity

The apartment and room sizes are acceptable. The development performs reasonably well in relation to the RFDC environmental design guidelines. There are no outstanding amenity issues.

Safety and security

There are no issues of safety and security apparent.

Social dimensions

The mix of apartment sizes and the accessibility of apartments is acceptable.

Aesthetics

Item 4

The façade compositions of horizontal base, middle and top, balanced with vertically proportioned bays, create a well proportioned and articulated building.

Conclusion and recommendations

The proposed change of roof form to a lower roof pitch is supported, to reduce the scale difference between this site and the site to the south, and to reduce the overshadowing impact. It is recommended that this development application is approved with respect to SEPP 65 design issues.

Landscaping

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

The site

*It is proposed to demolish the existing dwellings and associated structures and construct a five storey residential flat building with basement car parking on the amalgamated site area of 2 658sqm with vehicular access from the Pacific Hwy. The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and grassed areas. The site adjoins a draft heritage item, 'The Oaks' located to the north west. The site frontage is dominated by two mature trees, one a mature *Ficus* spp (fig tree) located adjacent to the western site boundary on the adjoining property, the other a mature *Quercus robur* (English Oak) centrally located adjacent to the site frontage. The rear of the site is characterised by a typically urban horticultural setting with number of smaller trees adjacent to site boundaries.*

Impacts on trees/Trees to be removed/Tree replenishment

*The proposed development will result in the clearing of the site of all existing trees and vegetation with the exception of the *Quercus robur* (English Oak) centrally located adjacent to the site frontage. Landscape Services raises no objection to the nominated tree removal as the most significant trees located on or associated with the site are being retained with appropriate setbacks to maintain their ongoing health, vigour and future growth.*

*As proposed the development will result in a new driveway being located beneath the canopy drip line of both the *Ficus* spp (Fig) and the *Quercus robur* (English Oak). The location of the proposed driveway is outside of the critical root zone for both trees, and given the location of the existing driveway and associated structures (retaining walls) any root disturbance will be minimal. To further minimise any potential impacts it is required that excavation for the driveway be undertaken by hand under supervision of the consulting arborist, as per the recommendations made by the consulting Arborist. No objections are raised by Landscape Services.*

Item 4

As proposed on the landscape plan submitted with the application, in addition to the existing trees being retained an additional 26 trees capable of attaining a minimum height of 13.0m are to be planted on site. This exceeds Council's minimum requirements as stated within DCP55 for tree replenishment. This is in addition to other smaller tree species that will provide understorey planting. Species selected include native indigenous species and exotic species that are characteristic of the broader Killara landscape setting. Landscape Services raises no objections to tree species as proposed.

Deep Soil

By the applicant's calculations, the proposed development will have a deep soil area of 1343sqm or 50.5% of the site area, which numerically complies with the minimum requirement within LEP194. Landscape Services is in agreement with the areas shown as being included within the deep soil area.

Setbacks

Landscape Services raises no objections to the proposed setbacks. As proposed adequate deep soil landscape area has been provided for the establishment of trees and sufficient screen planting to maintain and enhance neighbour amenity in compliance with the intent of LEP194 and DCP55, within the constraints of the proposed changes to the built form.

Landscape Plan

The landscape plan by Ian Jackson, Landscape Architect Pty Ltd can be supported by Landscape Services. The landscape as proposed will be reflective of the broader Killara landscape character, and has addressed Council's recommendations for the landscape character for the site.

Drainage Plan

Landscape services raises no objections to the proposed drainage works as detailed on the Concept Stormwater management Plan, as they proposal has taken into consideration existing trees to minimise adverse impacts and proposed soft landscape elements.

Heritage

As previously noted the subject site is located adjacent to a 'draft' heritage item, 'The Oaks'. As proposed the landscape works adjacent to this site boundary has provided dense planting to maintain and enhance neighbour amenity and privacy through screening and layered planting. This has been achieved by using medium sized (deciduous) trees, large evergreen screening shrubs and an evergreen understorey of small shrubs, ornamental grasses and groundcovers. To complement the heritage character, planting adjacent to this site boundary is predominantly made up of exotic plant species that are typical of 'North Shore' gardens that typify the broader Killara landscape. As the draft heritage item does not have any

Item 4

existing screen planting, it is considered that proposed landscape works will enhance the landscape setting for the draft heritage item.

Landscape Services can support the application with conditions.

Engineering

Council's Engineering Assessment Officer, Robin Howard, commented on the proposal as follows:

Subdivision, energy requirements

The DA application form indicates that strata subdivision IS NOT proposed under this DA, hence strata subdivision conditions will NOT be applied in this referral response. So that the building is not constructed across lot boundaries, the applicant will be required to consolidate all the Torrens lots prior to issue of the Construction Certificate.

Development Engineers have placed a condition of consent in this referral response that the Applicant liaise with Energy Australia regarding their power supply requirements (including substation) prior to Construction Certificate issue, and comply with such requirements prior to occupation and issue of the Occupation Certificate.

A power pole is to be relocated under the proposal to make way for the proposed driveway crossing.

Site drainage comments

I refer to the Concept Stormwater Management Plans, sheets C1(A), C2(A), C3(A) and C4(A) of job 343440 by AFCE, dated 20/06/05. This drainage proposal incorporates the following stormwater management facilities and disposal works for the development, to ensure compliance with Council adopted Water Management DCP47:

- *On site retention of stormwater for domestic re-use within the buildings for toilet, cold laundry and landscape irrigation (total volume of 41 m³).*
- *On-site detention of 41 m³*
- *Discharging of site runoff to Pacific Hwy drainage system.*

*Given that the existing four single dwellings show no evidence of any stormwater management or control devices, it is assumed that they currently discharge **uncontrolled** into the receiving system.*

The drainage management measures for this site, once installed, will result in a reduction in mains water supply (roof runoff used for toilet flushing, cold laundry and irrigation) and will control the rate of runoff downstream to a greater extent than the existing situation.

Drainage provisions are considered acceptable and comply with Water Management DCP 47, and will be subject to conditional consent.

Item 4

Traffic generation and vehicle access and accommodation arrangements

I refer to the Traffic Assessment Report submitted with the Development Application (refer "Assessment of Traffic and Parking Implications" prepared by Transport and Traffic Planning Associates, reference 0520, dated June 2005). The report is generally to an acceptable standard on which to base an assessment of the traffic related impacts of the subject Development.

LEP 194 Parking requirements are as follows:

Clause 25J Car parking

- 1. Before granting consent to residential development on land to which this Part applies, the consent authority must take into account the following:*
 - a. the proximity of multi-unit housing zones to rail station centres and major bus routes along Mona Vale Road serving the St Ives Centre,*
 - b. the desirability of encouraging use of public transport,*
 - c. that the impact of car parking on the natural ground area of multi-unit housing lots should be minimised and the need to provide sufficient deep soil landscaping for trees and their long-term sustainability,*
 - d. that the visual impact of car parking both from the street and from other land (private or public) should be minimised*
- 2. Consent must not be granted to development that will result in more than one dwelling on a site unless*
 - a. at least one car space is provided per dwelling and, if the site is not within 400 metres of a pedestrian entry to a railway station, one additional car space is provided for each dwelling with 3 or more bedrooms, and*
 - b. at least one additional visitor car space is provided for every 4 dwellings, or part thereof, that will be on the site.*
- 3. All car parking provided must not be open air car parking unless it is for visitors, in which case it must be constructed with water-permeable paving unless the paving is directly above part of the basement.*

The site is located over 400m distance from the nearest rail station.

Based on the above LEP parking requirements, the proposal therefore requires a minimum total of 47 resident spaces and 10 visitor spaces, 57 in total. The proposal provides 71 spaces (including 10 visitor spaces) and complies with the LEP parking off-street requirement.

The Traffic Generation of this Development has been estimated using the "RTA Guide to Traffic Generating Developments" as follows:

Item 4

	<i>Pre-Developed</i>	<i>Post-developed</i>
<i>Number of dwellings</i>	<i>3 dwelling houses</i>	<i>16 x 1 bedroom unit 17 x 2 bedroom unit 7 x 3 bedroom unit</i>
<i>Daily vehicle trips (combined in/out)</i>	<i>27 (9 per dwelling)</i>	<i>163 to 206 Based on medium density generation: 4-5 per dwelling (2 or less bedrooms) 5 to 6.5 per dwelling (3 or more bedrooms)</i>
<i>Peak hour vehicle trips (combined in/out)</i>	<i>2.6 (0.85 per dwelling) 1 vehicle every 23 minutes averaged over peak hour</i>	<i>16 to 21 Based on medium density generation: 0.4-0.5 per dwelling (2 or less bedrooms) 0.5 to 0.65 per dwelling (3 or more bedrooms) 1 vehicle every 2.9 minutes averaged over peak hour</i>

The assignment of an **additional** 18 peak hour trips in and out combined (see table above) into the affected intersections (broken down into 80% outgoing and 20% incoming at am peak and the reverse at pm peak) is not expected to statistically lower the operating levels of service at any nearby intersections during the peak hours. The Pacific Hwy carries an average of 52,102 vehicles per day and the assignment of vehicles from this developed site will have no discernable impacts on the road network. Traffic generating and associated impacts of the proposal are considered satisfactory, subject to conditional consent.

Entry is left in/left out only. Sight distances for exiting traffic comply with the acceptable sight distance requirements of Australian Standard 2890.1 – 2004 “Off-Street car parking”. Vehicle access and accommodation arrangements, and garbage collection facilities, satisfy Council DCP40 and the applicable Australian Standards.

Construction Management

Based on the scale of works and expected construction vehicle movements, a detailed construction traffic management plan must be submitted for review by Council Engineers prior to the commencement of any works on site. This has been conditioned.

Impacts on Council Infrastructure and associated works – comments

Item 4

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

- *Construction of a fully new concrete footpath over the full site frontage on Pacific Highway. To be designed and constructed in accordance with Councils Technical Services specifications.*
- *New concrete driveway crossing to access the site from Pacific Highway.*
- *Relocate power pole to utility provider specifications.*
- *Removal of all redundant driveway laybacks and re-instatement to upright kerb and gutter.*
- *Replacement of the verge area to turfed verge between new footpath and existing kerb alignment.*

As with all development of this scale, there is the risk of damage to Council infrastructure during the course of the works through heavy truck movements and contractor activity. A \$50,000 bond to cover restoration of such damage, where the developer does not carry out repair works (or completion of unsatisfactory works by Council) is to be applied.

Geotechnical / Structural Comments

In support of the application, the applicant has submitted a Geotechnical Report ("Preliminary Geotechnical Investigation Report for Proposed Residential Development at 497 to 507 Pacific Highway, Killara, NSW" by Jeffery and Katauskas Pty Ltd, reference 19531Vrpt, dated 28 June 2005.)

The borehole field assessment and subsequent report on the findings are considered appropriate for the DA assessment based on the scale and location of excavations proposed within the site. The report contains information and recommendations on appropriate excavation and construction techniques based on subsoil and hydrogeological conditions (no groundwater above basement level). Attention is paid to support of the excavation faces. It is generally expected that the majority of excavation will be in fill, residual silty clays and then weathered shale below this level. Excavation of upper levels can be carried out with earth moving machinery such as excavators and dozers. Higher strength shale will generally need to be removed through breaking or controlled excavation techniques (sawing, grinders, breakers). Vibration transmission must be controlled and monitored through this process where breaking machinery is used, and dilapidation reports will be required (conditioned) on adjoining property infrastructure as discussed in the geotechnical report.

Based on the finding and recommendations in the submitted geotechnical report for this proposal, Development Engineers satisfied that the geotechnical excavation and construction aspects of this DA can be addressed through suitable conditions of consent. These conditions will require additional boreholes and further and ongoing geotechnical monitoring of excavation and construction processes as outlined in the submitted geotechnical report. Dilapidation reports are to be completed on neighbouring property and infrastructure. Geotechnical conditions are included in the referral response.

Item 4

Conclusion

Based on the formal engineering assessment, Councils Development Engineer has determined that the proposal is satisfactory for development approval on engineering grounds, subject to the engineering conditions being imposed as shown.

Heritage

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

Demolition

The subject site does not contain any significant buildings and there is no heritage reason to restrict demolition of the built elements on the site. It is noted that the stone fence is likely to be the original fence of the adjacent draft heritage item, "The Oaks" at 517 Pacific Highway. Retention of the existing stone fence is supported. The oak tree is probably a remnant tree from the former garden of "The Oaks" and should be retained.

As with all site subject to rezoning under LEP 194, I recommend archival recording to be undertaken. The reason for this is that there is such rapid change in Ku-ring-gai with the recent rezoning that it is becoming important to record these sites and the documents will assist research in future years.

The "Stables"

A submission from a nearby resident was received claiming that the two storey garage at the rear of No 507 was the original stables to "The Oaks" at 517 Pacific Highway, Killara. I conducted a physical inspection of the garage on 17/8/05 accompanied by the applicant. The two storey brick garage with study above appears to be a purpose designed garage/studio. It is rendered externally to match the house (rough cast) and rendered internally. The upper floor timber floor has 4" boards, typical of post war floor construction. Similarly the window and door joinery all appears to be post war c1950.

I undertook some preliminary historical research relating to 517 Pacific Highway and the following evidence has been determined:

The 1927 Water Board plan shows a single garage at the rear of 517 Pacific Highway in roughly the same location of the existing garage. However, the plan shows the garage to be orientated north/south with its doors facing Stanhope Road. It is described as a timber and iron garage and the plan shows an access handle along the eastern boundary with an entrance from Stanhope Road (note an unused driveway crossing still exists in Stanhope Road).

- *Council's building register notes the following in 1937 - new lavatory (probably the small addition near the southern boundary fence).*

Item 4

- *Council's building register notes the following in 1941 - new brick garage (no plans are available but it is believed to be located on the site of the existing tennis court). The garage was orientated to Stanhope Road.*
- *In 1949, the original site of "The Oaks" was subdivided with creation of a new lot containing a tennis court and was sold in 1950/51.*
- *The existing house and garage at 507 Pacific Highway appears to date to c1951.*
- *Council files note a tennis court was approved at "The Oaks" in 1984. It is believed the 1941 brick garage was demolished to allow construction of the tennis court.*

From the above, I conclude that the garage at 507 Pacific Highway was constructed about the same time as the house (c1951). The garage to "The Oaks" was demolished c1984 to allow construction of the existing tennis court. It appears that "The Oaks" never had a stable on the property but a single timber garage existed on the site in 1927. The existing garage at 507 Pacific Highway would have a low level of heritage significance and no objection to its demolition is raised provided photographic recording is undertaken.

Heritage items "within the vicinity"

There are a few heritage items 'within the vicinity' of this site, but the most relevant item is the adjacent draft heritage item, "The Oaks" at 517 Pacific Highway. Council resolved at it's meeting on 15 February 2005 to prepare a draft LEP to include it as an item in Schedule 7 of the KPSO and to apply for an Interim Heritage Order to protect it.

Council prepared draft (Heritage Conservation) Local Environmental Plan No 32 and after public exhibition of the draft Plan finalised the draft plan at its meeting of 19 July 2005. The Council resolution is:

It is considered that Council should manage "The Oaks" as a heritage item as the listing process is relatively advanced. It is noted that "The Oaks" is zoned to allow medium density development and is considered that the building is sufficiently large to allow apartment conversion and some additional accommodation may be accommodated on the site. It is also noted that after gazettal of draft LEP 32 the building could be used for "other uses" consistent with the heritage incentive clauses of the KPSO.

Other nearby heritage items including:

- *No 512 Pacific Highway (directly opposite subject site);*
- *Nos 2, 3, 4, 5, 6 & 7 Stanhope Road (No 3 Stanhope is closet to the subject site); and*
- *No 3 Killara Avenue, Killara.*

Item 4

The item at 512 Pacific Highway is opposite the subject site but separated by the Pacific Highway. The physical separation is consistent with the heritage objectives in DCP 55 and should not cause undue heritage impacts.

The rear of No 3 Stanhope Road is close to the rear of the subject site. The physical separation (about 30m) exceeds the requirements in DCP 55 and it is considered that it would not adversely impact on the primary views to the item and would not adversely restrict views from the item or cause unacceptable visual domination of the item.

The other nearby items are sufficiently removed from the subject site and it is considered no adverse impact would result from the proposed development.

National Trust Urban Conservation Area No 10

The site is within the National Trust Urban Conservation Area No 10 (Culworth Precinct). The UCA is noted for its Federation period houses and 1920s bungalows, three storey flats near the railway station and large 1930s houses in Marion Street. No 507 Pacific Highway is included in the precinct, but Nos 497 & 499 is not included. No 507 is a c1950 single storey house and relates to the second phase of development in the precinct when the larger houses were subdivided and is considered to be non-contributory or neutral to the overall historic and aesthetic values of the UCA. The Oak tree on the site of No 507 Pacific Highway is most likely associated with the adjacent draft heritage item and should be retained. Similarly the stone fence is a remnant from the draft heritage item and should be retained.

UCA 10 has been subject to considerable rezoning, particularly Marion Street. Stanhope Street is largely unaffected by rezoning and as it contains many large houses and many heritage items. The historic and aesthetic character of Stanhope Road will be retained in the future and not impacted by this proposed development.

It is my opinion that the proposed development will have some impact on the UCA, but as it is on the edge of the UCA and the significant Stanhope Road precinct will be retained the impact of the proposed development will be minimised. I recommend that Council's landscape officers should ensure that planting on the site will ensure screening on the common boundary with the draft heritage item and along the Pacific Highway. I also recommend that recessive colours and textures be selected for the proposed development to minimise any visual impact (attached condition).

Compliance with DCP 55

The DCP requires several numeric design controls where a site is directly adjacent to a heritage item. As previously mentioned, the adjoining draft heritage item is of considerable aesthetic and historic significance.

The relevant specific controls require:

Item 4

- C – 1 (i) *Setback the first and second stories as least 10m from the adjacent heritage building*
 (ii) *Set back the third and fourth stories as least 15m from the adjacent heritage building; and*
 (iii) *Be set back from the front boundary so that it is not closer than the adjoining heritage building.*
- C – 3 *New development shall respect the aesthetic character of the item and not dominate it.*
- C – 4 *Colours and building materials are to be complimentary to the heritage building.*

Side setback

It appears that the applicant has taken measurements from the main facades of the adjoining draft item and has ignored the small single storey addition believed to be constructed c 1937. The setback of the first and second stories is about 13 – 14m, and exceeds the requirements in DCP 55. If measured from the plan, the third and fourth floor is set back 13 to 14m and is not consistent with the minimum setback (15m). The fifth floor setback exceeds the required 15m setback.

It is noted that the applicant takes the measurement of the setback from the main façade at the first floor level, while Council takes it from the ground floor “foot print”. It is noted that the south elevation of “The Oaks” contains a small lean-to projection which is the lavatory added in 1937. It is noted that if the physical separation is taken at the same level as the third and fourth floor of the proposed building the physical separation is over 16m and complies with the requirements of DCP 55.

Front setback

The setback from the Pacific Highway is between 10 & 12m. The setback of the draft heritage item is about 18m. DCP 55 requires the new flat building to be “setback from the front boundary so that it is no closer than the adjoining heritage building”. Clearly this standard is not achieved and there is a discrepancy of 6-8m.

Prior to lodgement of the application, Council’s heritage advisor and planning officers met the applicant on site. The applicant was advised that a 18m setback was required. Soon after lodgement of the application, a letter was sent to the applicant with certain concerns including the front setback.

The applicant responded with a revised scheme however did not alter the front setbacks but argued that the front setback is acceptable given the site conditions.

An additional heritage report was also submitted which argues that the setback is acceptable given that the setback of the heritage item is substantial and not characteristic of the area, the

Item 4

principal view of the heritage item is from the north at the corner of Stanhope Road and north west from the Pacific Highway and increased front setbacks would have no advantage to the item. It argues that the western, Pacific Highway elevation is dominated by vegetation and the southern elevation is not a significant elevation and the increased side setback of 15m will enable some limited views of the draft heritage item from the south which is not currently available due to the location of the existing house. The heritage report concludes that:

“The proposal adequately addressed both the setting of the item and the views to and from it in a manner that has virtually no heritage impact and meets the aims of the requirements of the DCP.”

Given the site conditions of an application it is my opinion that non-compliance with the numerical requirements in Council’s DCP is not necessary to achieve the objective in the DCP.

The objectives in DCP 55 with regard to “within the vicinity” seek to ensure that new flat development:

- *respects the heritage significance of the adjoining item*
- *does not visually dominate the item from the public realm;*
- *does not reduce the views to or from the item or public realm; and*
- *does not impact on the garden setting.*

In framing the DCP, the condition that the new development should be setback so that it is “no closer than the heritage item” was a broad requirement included to ensure that the new flat development does not restrict views to or from a heritage item or visually dominate it. The objective assumed that the heritage item has a street frontage and has properties on both sides. The objective was not framed to consider items on corner sites that have two street frontages.

The main view of the draft heritage item is from Stanhope Road and from the corner of the Pacific Highway and Stanhope Road and the view from the Pacific Highway is heavily screened by mature trees. The view from the south is not important and not currently available. The trees on the draft item are a dominant landscape feature of the site and have their own significance. The glimpses of the heritage item through the trees frames its existing setting and eludes to more the more gracious houses found in Ku-ring gai. In terms of scale, the proposed development is higher and longer but given the scale of the draft item and the screening by mature trees, would not result in visual dominance of the draft item. There would be some loss of views from the southern side of the heritage item to the city, particularly from the first floor verandah. However, setting the proposed building further back on the site may not increase the access to views to the south. It is also noted that existing trees in the vicinity would provide some reduction to views from the draft item to the city.

It is my opinion that strict compliance with Council’s DCP provisions in relation to front setback is not critical as the view to or from of the draft item is not reduced and the proposed

Item 4

development would not visually dominate the draft item. The revised application has reduced the overall height by deleting a pitched roof and providing a low pitched roof, and in my opinion this is an improvement as it reduces the height. I note that is substantial landscaping being retained and new landscaping introduced. I recommend that the landscape officers comment on the landscaping and recommend that trees that can screen the site when mature be selected.

Aesthetic character

The proposed development is clearly contemporary and does not copy design elements from the heritage item. There is an attempt to provide variation and articulation to the facades by the use of a mix of face brickwork, painted cement render, metal louvers and a pitched tiled roof. As shown in the streetscape drawings, the buildings would be partially screened by trees.

The application initially proposed a pitched and tiled roof to assist its “fit” with the heritage item. That was amended and a low pitched metal clad roof is now proposed. This had the effect of reducing the overall height and scale relationship to the draft heritage item which is supported. There is an attempt to design the window openings to reflect vertical proportions, more consistent with the proportions of widow and door openings in the heritage item.

Colours and building materials

The proposed building materials are common in the local area and a variety of materials is used to help articulate the facades. Colour schedules and coloured renderings or photomontages have not been provided with the application and thus can not be assessed. I recommend mid to dark brick colours to relate to the adjoining draft heritage item and neutral to recessive colours for other surfaces to assist in reducing its visual impact

Conclusions and recommendations

Demolition of the existing built elements on the site is acceptable provided photographic recording is undertaken (attached conditions).

It is acknowledged that the proposed development does not comply with the front setback requirements in DCP 55 in relation to adjoining heritage items and that the non-compliance is about 6-8 metres. It is also acknowledged that the view of the draft heritage item along the Pacific Highway is largely obscured by existing vegetation and the vegetation takes on its own significance and contributes to the setting of the draft item. It is my opinion that the main view corridor of the draft heritage item is from the north and north-west, from the Pacific Highway and Stanhope Road and the setback of the proposed development does not impact on that view. It is also my opinion that the view from the heritage item south towards the city would not be improved if the proposed building was set back further from the Pacific Highway. For this site the applicant’s statement justifying the front setback is supported.

Item 4

It is noted that the subject site is partially within a UCA and the existing buildings are considered non-contributory. It is my opinion that the proposed development will have some impact on the integrity of the UCA but as the subject site is on the edge of the UCA the impact will be minimised. I note that the important streetscape of Stanhope Road (which contains many existing heritage items) will be retained and will not be impacted by this development.

Given the guidelines in DCP 55, the application is satisfactory in terms of its impact on the adjoining draft heritage item, nearby heritage items and National Trust Urban Conservation Area (UCA 10).

I recommend that colours for face brickwork be mid to dark brown to match other properties in the UCA and that neutral recessive colours are chosen for the development (conditions attached). I also recommend that Council's landscape officers ensure sufficient landscaping is placed on the site to screen the development for the Pacific Highway and along the boundary with the adjoining heritage item.

PROVISIONS OF RELEVANT LEGISLATION

State Environmental Planning Policy No 55 - Remediation of Land

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

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

The application includes a design verification statement by the project architect Mr Peter Brecknock of Wolski Lycenko & Brecknock Architects. Mr Brecknock has verified that he is a qualified designer and member of the NSW Architects Registration Board and has designed the proposal in accordance with the design quality principles set out in Part 2 of SEPP 65.

The application has been assessed in terms of the Design Quality Principles set out in SEPP65. The design quality principles do not generate design solutions but provide a guide to achieving good design and the means of evaluating the merit of the proposal.

The SEPP 65 assessment is as follows:

Context:

The development is permissible and largely complies with the prescribed requirements of LEP194, including maximum height, site coverage, number of storeys and deep soil landscaping. The building setbacks to Pacific Highway are also compliant.

A number of residential flat building development proposals in the vicinity of the development are currently under consideration by Council or have recently obtained approval. Accordingly, the

Item 4

proposed development relates to its context by responding to the provisions of LEP194 and DCP55 that have been formulated to provide higher density 5 storey development.

Scale:

The development meets the prescribed building envelope requirements of LEP194, including building height, deep soil landscaping, site coverage and setbacks, with the exception of a minor non-compliance to the heritage property to the north which is acceptable on merit. The scale of built form proposed is appropriate to the context and future character and form of the locality as envisaged by the LEP.

Built form:

The built form is acceptable and consistent with the desired future character of the locality. It complies with prescribed building envelope controls and will have an appearance of an appropriately proportioned building set in landscaped open space.

The development provides for 40 units and features a combination of rendered masonry elements and a low, single pitch skillion-type roof with the penthouse level set in from the perimeter walls. The built form is varied and utilises steps and changes in materials, vertical and horizontal articulation to create visual interest.

Accordingly, the design techniques incorporated in the proposal result in an acceptable built form.

Density:

The proposed building density is appropriate to the site, having regard to development guidelines contained in LEP 194 and DCP 55 and the envisaged future character of the area. The locality is well serviced in terms of services and open space and the site itself is in close proximity to the Killara railway station and bus transport along Pacific Highway.

Further, the development itself is compliant with the floor space control and can be adequately serviced by existing infrastructure. The proposed density is therefore acceptable.

Resource, energy and water efficiency:

The development incorporates energy efficient design and construction elements; including re-usable building materials, masonry construction of high thermal mass, efficient insulation and passive solar design. It achieves acceptable results in terms of energy efficiency and cross flow ventilation, with 70% of apartments being cross ventilated and almost 50% of apartments achieving a 5 star energy rating. Only 20% of the units are single aspect and none of them south-facing. The proposal also incorporates a retention and detention stormwater system with water re-use for toilet flushing, laundries and irrigation.

Landscape:

Item 4

The proposal provides for 50.5% of the site being a deep soil zone and complies with the prescribed control of LEP 194. The landscape design combines native and exotic plants and trees to provide sustainable planting that harmonise with the existing surrounding character of the area and provide privacy screening to both residents within the development and to neighbouring properties.

The layout and distribution of communal and private open space ensure high levels of access, usability and privacy.

The proposed landscaping is consistent with the desired future character of the area, which seeks large canopy trees to soften the buildings and contribute to the streetscape. Overall, the proposed landscape scheme is appropriate to the physical context of the site and will create a pleasant environment. The proposed landscaping is practical, will not present any difficulty for long term management and is to the satisfaction of Council's Landscape Assessment Officer.

Amenity:

The development contains 40 units, ranging from 58m² to approximately 110m² providing good solar access, cross ventilation and visual and acoustic privacy. Terraces and balconies are well sized, ranging from 10m² to 82m² with larger balconies to the penthouses. Each individual unit has it's own entry lobby and secure internal access to the basement car park by lift or stairs.

The development provides an acceptable level of internal amenity.

Safety and security:

The proposal provides for good levels of safety and security through siting, internal planning and design. The proposal maximises opportunities for casual surveillance of communal open space areas on site, provides quality common spaces, a clear definition between public and private spaces and enhances the street level activity.

Examples of safety and security measures taken include provision of lift and stair access directly from the basement car parks to apartment levels, a front gate to the street frontage of the site, secure ground floor terrace areas through individual fencing, key and remote controlled access to the basement car park only and visibility of pathways throughout the site from units within the development where possible.

Social dimensions:

The application contains a balanced mix of one (15), two (18) and three (7) bedroom apartments providing variety in housing choice. The apartments are of an acceptable size (58m² to 110m²) and will provide high quality of living for residents of the development. The development is in an accessible location, in close proximity to public transport nodes (approximately 800m to the Killara Railway Station) and commercial centres in both Gordon and Lindfield.

Accessibility for the disabled and elderly has been considered by provision of single level units throughout the development and lift access to all levels, including the basement car park.

Item 4

Aesthetics:

The building is of a high design standard and reflects the design principles of the Residential Flat Design Pattern Book and the Design Code. It's external appearance and composition of building elements, textures, materials and colours satisfactorily reflects the use, internal design and structure of the development.

Residential Flat Design Code

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

Relating to the local context:

The proposal, sited over three allotments, will require their consolidation. This amalgamation will result in a site area of 2658m², which is capable of accommodating the proposed density of five storeys.

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

Surrounding sites within the locality have been zoned for multi-unit development. Several applications for development of residential flat buildings are currently under consideration by Council. In some cases, planning approval for such developments has already been obtained as mentioned earlier in the report. The development therefore reflects the desired future built form context of the area as envisaged by LEP 194 and DCP55.

Site analysis

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

In terms of site configuration, the proposal will ensure adequate areas for private and common open space and deep soil landscaping. The orientation of the building ensures adequate solar access to habitable areas and private open space within the development.

Building design:

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

Item 4

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

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 1800m ² -2400m ²	2658m ²	YES
Deep landscaping (min): 50%	50.5%	YES
Street frontage (min): 30m	47.6m	YES
Number of storeys (max): 5 cl. 25I(5)	5	YES
Site coverage (max): 35%	35%	YES
Top floor area (max): 60% of level below	58%.	YES
Storeys and ceiling height (max) cl 25I(8): 4 storeys and max 13.4 metres in height	4 storeys and 13.3 metres	YES
Zone Interface • 3 rd and 4 th floors setback 9m from land not zoned 2(d3)	9 metres	YES
Car parking spaces (min): Residents spaces: One space per dwelling, and one additional space for dwellings of three + bedrooms (total of 61 required) Visitor spaces: 10 spaces	61 resident spaces provided. 10 visitors spaces provided	YES YES
Manageable housing (min): 10% (4 units)	4	YES
Lift access: required if greater than three storeys	Provided to all units	YES

Heritage /conservation areas (cl.25C(2)(e) and 61D - 61I):

There are a few heritage items within the vicinity of the site, but the most likely affected is the adjacent draft heritage item, "The Oaks" (No. 517 Pacific Highway aka 1A Stanhope Road). Council resolved at it's meeting on 15 February 2005 to prepare a draft LEP to include it as an item in Schedule 7 of the KPSO and to apply for an Interim Heritage Order to protect it. On 5 April 2005, the Heritage Office advised that it does not consider action under the Heritage Act to be warranted at the present time but indicated that it will continue to monitor the matter closely.

Council prepared draft (Heritage Conservation) Local Environmental Plan No 32 and, after public exhibition of the draft Plan, finalised the draft plan at it's meeting of 19 July 2005. The Council

Item 4

resolved to adopt Draft (Heritage Conservation) Local Environmental Plan No.32 “The Oaks” 517 Pacific Highway, Killara and submitted the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with request that the Plan be made.

It is noted that “The Oaks” is zoned to allow medium density development and is sufficiently large to allow apartment conversion and some additional accommodation may be provided on the site. It is also noted that, after gazettal of draft LEP 32, the building could be used for “other uses” consistent with the heritage incentive clauses of the KPSO.

No. 517 Pacific Highway is therefore not listed on the *Register of the National Estate* nor subject to any conservation instrument under the provisions of the NSW Heritage Act 1977. Part of the property is located within a heritage conservation area identified by the National Trust of Australia (NSW) although such listing has no statutory provisions or requirements attached. The proposal satisfies Clauses 61D, 61F, 61G, 61H and 61I of the KPSO as these only relate to works proposed to heritage listed items or properties situated in gazetted conservation areas.

Conditions are recommended requiring that recording of the existing buildings be undertaken prior to demolition (refer **Conditions Nos 66 and 67**).

Adverse impacts on the draft heritage item are minimised by the generous setback of approximately 15 metres. Council Heritage Advisor, Paul Dignam, raises no objection and has recommended a condition to ensure that any likely impacts are further minimised. This condition includes specifying mature plantings (already incorporated into the landscape design) to aid in screening the property and the finishes proposed be recessive to match the surrounding built form. (Refer **Condition No. 65**).

Other nearby heritage items including:

- No 512 Pacific Highway (directly opposite subject site);
- Nos 2, 3, 4, 5, 6 & 7 Stanhope Road (No 3 Stanhope is closest to the subject site); and
- No. 3 Killara Avenue, Killara.

The item at No. 512 Pacific Highway is opposite the subject site but separated by the Pacific Highway. The physical separation is adequate and should not cause undue adverse impacts.

The rear of No. 3 Stanhope Road is approximately 30 metres from the north-eastern boundary of the subject site. The physical separation is sufficient and would not adversely impact on the primary views to the item and would not onerously restrict views from the item or cause visual domination of the item.

Other nearby items are also sufficiently removed from the subject site to ensure that no adverse impact would result from the proposed development.

Residential zone objectives

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

Item 4

POLICY PROVISIONS

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		
Development adjacent to a heritage item:		
• 1 st and 2 nd storey – 10 m	12m	YES
• 3 rd and 4 th storey – 15m	13.4m	NO
• Front setback no more than the heritage property – 16-18m	10-12m	NO
Part 4.1 Landscape design:		
Deep soil landscaping (min) 150m ² per 1000m ² of site area = 399m ²	> 400m ²	YES
No. of tall trees required (min): 9 trees	1 tree to be retained 20 canopy trees to be planted	YES
Part 4.2 Density:		
Building footprint (max): 35% of total site area	35%	YES
Floor space ratio (max): 1.3:1 (3455m ²)	1.31 (3481m ²)	NO
Part 4.3 Setbacks:		
Pacific Highway setback (min): 10 - 12 metres (<40% of the zone occupied by building footprint)	10-12 metres & 37% (minor basement encroachment of 7.2m ²)	YES
North east (rear) boundary setback (min): 6 metres	9 metres	YES
North west (side) boundary setback (min): 6 metres	12-14.5 metres to building façade 6 metres to basement	YES
Setback of ground floor terraces/courtyards to street boundary (min): Pacific Highway – 8m	8 metres	YES

Item 4

% of total area of front setback occupied by private courtyards (max): 15%	15%	YES
Part 4.4 Built form and articulation:		
Façade articulation:		
• Wall plane depth >600mm	All wall plane depths >600mm	YES
• Wall plane area <81m ²	<81m ²	YES
Built form:		
• Building width < 36m	30 metres to Pacific Highway	YES
• Balcony projection < 1.2m	<1 metre	YES
Part 4.5 Residential amenity		
Solar access:		
• >70% of units receive 3+ hours direct sunlight in winter solstice	70% (28)	YES
• 3 hours sunlight to habitable rooms and outdoor living areas of adjoining houses in Residential 2(c1) and 2 (c2) zones	>3 hours	YES
• >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice	>50%	YES
• <15% of the total units are single aspect with a western orientation	20% (8).	NO
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:		

Item 4

<ul style="list-style-type: none"> Storeys 1 to 4 <ul style="list-style-type: none"> - 12m to windows of habitable rooms 	>12 metres	YES
<ul style="list-style-type: none"> - 9m to windows of habitable and non-habitable rooms 	>12 metres	YES
<ul style="list-style-type: none"> - 6m to windows of non-habitable rooms 	>12 metres	YES
<ul style="list-style-type: none"> 5th Storey <ul style="list-style-type: none"> - 18m b/w habitable rooms 	Appr. 16 metres to house at No. 517 Pacific Highway	NO
<ul style="list-style-type: none"> - 13m b/w habitable and non-habitable rooms 	14 metres to house at No. 517 Pacific Highway	YES
<ul style="list-style-type: none"> - 9m b/w non-habitable rooms 	> 14 metres	YES
Internal amenity:		
<ul style="list-style-type: none"> Habitable rooms have a minimum floor to ceiling height of 2.7m 	2.7 metres	YES
<ul style="list-style-type: none"> Non-habitable rooms have a minimum floor to ceiling height of 2.4m 	2.4 metres	YES
<ul style="list-style-type: none"> 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms 	All bedrooms >3.0 metres	YES
<ul style="list-style-type: none"> Single corridors: <ul style="list-style-type: none"> - serve a maximum of 8 units 	Maximum 5 units	YES
<ul style="list-style-type: none"> - >1.5m wide 	1.8 metres	YES
<ul style="list-style-type: none"> - >1.8m wide at lift lobbies 	1.8 metres	YES
Outdoor living:		

Item 4

<ul style="list-style-type: none"> Ground floor apartments have a terrace or private courtyard greater than 25m² in area 	Greater than 30m ²	YES
<ul style="list-style-type: none"> Balcony sizes: <ul style="list-style-type: none"> 10m² – 1 bedroom unit 12m² – 2 bedroom unit 15m² – 3 bedroom unit NB. At least one space >10m² Primary outdoor space has a minimum dimension of 2.4m 	<p>10m²</p> <p>12m²</p> <p>15-82m²</p> <p>2.4 metres</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
Part 4.7 Social dimensions:		
Visitable units (min): 70%	At least 70% (28 units)	YES
Housing mix: Mix of sizes and types	1, 2 and 3 bedroom units	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency:		
<ul style="list-style-type: none"> >65% of units are to have natural cross ventilation 	70% (28 units)	YES
<ul style="list-style-type: none"> single aspect units are to have a maximum depth of 10m 	<9.5 metres	YES
<ul style="list-style-type: none"> 25% of kitchens are to have an external wall for natural ventilation and light 	<p>40% (16)</p> <p>all kitchens have access to natural light and ventilation</p>	YES

Item 4

<ul style="list-style-type: none"> >90% of units are to have a 4.5 star NatHERS rating (36) with no more than 10% only achieving the minimum 3.5 star rating (4) 	<p>4.5 to 5 star rating = 52% (21) 4 star rating = 15% (6)</p> <p>3.5 star rating = 33% (13)</p>	<p>NO</p> <p>NO</p>
Part 5 Parking and vehicular access:		
Car parking spaces (min): 47 x resident, 10 x visitor	61 x resident, 10 x visitor	YES

Part 3.5 Development in the vicinity of a heritage item

There are two areas of non-compliance. The first breach is minor and relates to the separation of the third and fourth floors of the development from the draft heritage item. These floors are set back 13 to 14 metres and are not consistent with the minimum setback of 15 metres. However, if the physical separation measurement is taken at the same plane as the third and fourth floor of the proposed building the separation is actually more than 16 metres; complying with the requirements of DCP 55. It should be noted that the first and second storey setbacks of 12 to 14 metres exceed the 10 metres required by DCP 55. Council's Heritage Advisor, Paul Dignam, raised no objection to this minor variation.

The second breach is in relation to the Pacific Highway setback compared to that of the heritage property. The proposal is set back 10-12 metres from Pacific Highway whereas the adjoining draft heritage item is set back 16 to 18 metres from that frontage. The application fails to satisfy Part 3.5(C-1) of DCP 55 which requires that developments *be set back from the front boundary so that it is not closer than the adjoining heritage building*.

The objectives in DCP 55 informing these setback controls seek to ensure that new residential flat development:

- respects the heritage significance of the adjoining item
- does not visually dominate the item from the public realm;
- does not reduce the views to or from the item or public realm; and
- does not impact on the garden setting.

This setback requirement in the DCP is a broad requirement to ensure that the new residential flat development does not restrict views to or from a heritage item or visually dominate it. The objectives assumed that the heritage item has a street frontage framed with properties on either side and were not drafted to consider items on corner sites that have two street frontages.

The main view of the draft heritage item is from Stanhope Road and from the corner of the Pacific Highway junction with Stanhope Road. The view from the Pacific Highway is also heavily screened by mature trees, while the view from the south is not important and is currently obscured by the existing dwelling and carport at No. 507 Pacific Highway. **Figure No. 2** shows the current

Item 4

setback to the draft item from the rear of the site. In terms of scale, the proposed development is higher and longer but given the scale of the draft item and the screening by mature trees, it would not result in visual dominance of the draft item. There would be some loss of views from the southern side of the draft item to the city, particularly from the first floor verandah. However, setting the proposed building further back on the site will not result in any meaningful improvement. It is also noted that existing trees in the vicinity would provide some reduction to views from the item to the city.

Council's Heritage Advisor, Paul Dignam, has provided a detailed assessment of the impacts and is in agreement that strict compliance with Council's DCP provisions in relation to front setback is not critical. The public view to the draft item is not significantly reduced and the relatively generous side setback will ensure that bulk and scale impacts are acceptable. The revised application has also reduced the overall height of the proposal by deleting a pitched roof and providing a low skillion-type roof. Substantial landscaping will be retained and new landscaping introduced will incorporate super-advanced species.

It should be noted that No. 517 Pacific Highway is not listed on the *Register of the National Estate* or subject to any conservation instrument under the provisions of the NSW Heritage Act 1977. The property is also not listed as a heritage item nor located in a heritage conservation area identified under the provisions of the Ku-ring-gai Planning Scheme Ordinance. Part of the property is located within a heritage conservation area identified by the National Trust of Australia (NSW), although such listing has no statutory provisions or requirements attached.

Part 4.2 Density

The proposal exceeds the floor space control by 27m² or 1% of the allowable floor area. This is considered negligible and can be supported in this instance.

Part 4.5 Residential amenity

This control specifies that not more than 15% of the units shall be single-aspect with a western elevation. This numeric control is exceeded by 5% or 2 units. The design objective informing the control seeks to ensure that adequate natural lighting to all living spaces is maintained. The proposal satisfies the objective by providing expansive fenestration to living rooms adjacent to recessed balconies. Windows to bedrooms as well as the balconies themselves are provided with sunscreen devices which will aid in shading and glare control in summer.

Part 4.5 Visual privacy:

The non-compliance is limited to the separation of the terraces on the fifth floor and the balcony and adjoining single window shown in **Figure No. 2**. The extent of the variation is minor and amounts to approximately 2 metres. The non-compliance can be attributed to the site's orientation and the proximity of the adjoining draft heritage item to the boundary (as a result of an unsympathetic subdivision during the 1940's).

Item 4

To ensure acceptable solar access, the majority of units are orientated north-east and north-west, resulting in some overlooking of No. 517 Pacific Highway. In this regard, it should be noted that:

- this property is also zoned 2(d3) and may be redeveloped in future
- this part of the building has a southern aspect and not normally considered a primary outdoor living area, the building has a wraparound balcony along its primary façades which have north-eastern and north-western aspects
- **Figure No. 2** clearly illustrates that the affected elevation does not enjoy a high level of visual privacy; the increased separation proposed will allow result in a more acceptable setting by the establishment of a substantial landscaped buffer which does not currently exist
- at low densities, there is a reasonable expectation that a dwelling will retain high levels of privacy but at higher densities privacy impacts are harder to minimise and the claim to retain it to the same level as low density development is not as strong
- physical screening of the non-compliant terrace areas is not considered appropriate as it will detrimentally affect their functionality with very little real benefit

The variation is supported as a reasonable degree of privacy is maintained, commensurate with a medium density residential environment.

Part 4.8 Resource, energy and water efficiency

DCP 55 requires 90% or 36 units to meet the NatHERS rating of 4.5 stars and above. Only 52% or 21 of the units achieve this control. The applicant, after re-considering the non-compliance, has indicated that improving the environmental performance of the development is not feasible, considering the orientation and shape of the site. The proposal has, through building orientation, stepping of the building and by limiting building depth, attempted to achieve an acceptable climatic responsive outcome. All units achieve a NatHERS rating of 3.5 stars and 67% of the units achieve 4 stars or above.

Given that other energy efficiency controls prescribed by DCP 55 are complied with, the NatHERS non-compliance is acceptable and does not constitute reason enough to refuse the application.

Development Control Plan 31 - Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against DCP 55.

Development Control Plan 40 - Construction and Demolition Waste Management

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against DCP 55.

Development Control Plan No 43 - Car Parking

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

Item 4

Development Control Plan 47 - Water Management

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

Section 94 Plan

The development attracts a section 94 contribution of \$483,246.34 which is required to be paid (Refer **Condition No. 83**).

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

ANY SUBMISSIONS

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

PUBLIC INTEREST

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

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for assessment.

CONCLUSION

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

RECOMMENDATION

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

THAT the Council, as the consent authority, grant development consent to DA 651/05 for the demolition of existing structures on site and the construction of 15 x1 bedroom, 18 x 2 bedroom and 7 x 3 bedroom dwellings within a single building, associated access, basement parking and landscaping on land at 497-507 Pacific Highway, Killara, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

Item 4

GENERAL

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

Architectural Plans

Dwg. No.	Description	Author	Dated	Lodged
DA 01	House basement	Wolski Lycenko & Brecknock Architects	22 June 2005	24 June 2005
DA 02	Basement carpark	Wolski Lycenko & Brecknock Architects	22 June 2005	24 June 2005
DA 03	Ground level	Wolski Lycenko & Brecknock Architects	22 June 2005	24 June 2005
DA 04	Levels 1, 2 and 3	Wolski Lycenko & Brecknock Architects	22 June 2005	24 June 2005
DA 5a	Penthouse level	Wolski Lycenko & Brecknock Architects	20 September 2005	23 September 2005
DA 06a	Elevations	Wolski Lycenko & Brecknock Architects	20 September 2005	23 September 2005
DA 07a	Elevations	Wolski Lycenko & Brecknock Architects	20 September 2005	23 September 2005
DA 08a	Elevation Section	Wolski Lycenko & Brecknock Architects	20 September 2005	23 September 2005

Landscape Plans

27.05/064	Landscape plan	Ian Jackson Landscape Architect Pty Ltd	June 2005	24 June 2005
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2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any

Item 4

officer of Council or the Principal Certifying Authority. (*Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance*).

7. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
8. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

9. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
10. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
11. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
12. To maintain existing ground levels all excavated material shall be removed from the site.
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. 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.

Item 4

- 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.

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

16. 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.

17. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

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

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

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

18. 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.

19. Any fencing and associated footings shall be constructed entirely within the boundaries of the property.

20. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.

21. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.

22. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays

Item 4

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

23. 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.

24. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
25. 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.
26. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
27. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
28. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.

Item 4

29. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
30. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
31. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
32. Fire hoses are to be maintained on site during the course of demolition.
33. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
34. 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.
35. 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.
36. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
37. 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.
38. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
39. "Peep holes" shall be provided to the entrance doors of all units for personal security.
40. Compliance with the notations overdrawn on the consent plans.

Roads and Traffic Authority

Item 4

41. The proposed driveway off Pacific Highway shall have a minimum width of 6 metres for a minimum distance of 6 metres within the subject site, splaying out to 8 metres at the kerb line off Pacific Highway.
42. The design and construction of the proposed gutter crossing off Pacific Highway 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).

Detailed design plans of the proposed gutter crossing are to be submitted to the RTA for approval prior to the commencement of any road works.

The developer is to be advised that a plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by the RTA.

43. The proposed development should be designed, such that road traffic noise from Pacific Highway 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 apply 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(15hr) and 40 dB(A) Leq(9hr) and
- Sleeping rooms: 35 dB(A) L-eq(9hr)

44. The applicant shall ensure that post development storm water discharge from the subject site into the RTA drainage system does not exceed the pre-development discharge. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RTA for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management
PO Box 558, Blacktown, NSW 2148

A plan checking fee may will be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirement please contact the RTA's Project Engineer, External Works Ph: 8814 2114 or Fax 88142111.

Item 4

45. Suitable provision should be made on site for all construction vehicles to prevent vehicles parking or standing on Pacific Highway.
46. Off-street parking associated with the proposed development (including driveway, aisle widths, aisle lengths, parking bay dimensions and sight distances) should be designed in accordance with AS 2890.1 - 2004.
47. Any redundant driveway on Pacific Highway must be removed and kerb and gutter reinstated to match existing.
48. All vehicles are to enter and exit the site in a forward direction.
49. All work associated with the proposed development shall be at no cost to the RTA.

Engineering

50. Stormwater runoff from all new impervious areas and subsoil drainage systems must be piped to the street drainage system in the Pacific Hwy, via the stormwater management system on site. New drainage line connections to the street drainage system must conform and comply with the requirements described in sections 5.3 and 5.4 of Ku-ring-gai Council Water Management Development Control Plan 47. The Applicants attention is directed to the requirements for obtaining a *Road Opening Permit* for excavating in the road reserve.
51. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary delivery plumbing must be provided for the development. The (minimum) total storage volume of the rainwater tank system is to be 41m³, and the prescribed re-use of the water on site, must be toilet flushing (each unit), cold laundry (each unit) and garden irrigation as specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).
52. In addition to the mandatory rainwater retention and re-use system provided, an on-site stormwater detention system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
53. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanized grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

Item 4

54. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.
55. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.
56. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
57. The adjustment or inclusion of any utility service facilities (including relocation of the power and light pole to make way for the new driveway crossing) must be carried out by the applicant in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services, at the appropriate stage of the development (including power, water, phone, gas and the like). It is assumed that the Applicant has considered such matters in the design and Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
58. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
59. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary

Item 4

erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

60. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
61. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au 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.
62. In order to allow **unrestricted access at all times** for Ku-ring-gai Council waste collection vehicles into the basement garbage collection area - no doors, grilles, gates or other fixed devices are to be provided in the access driveways to the basement carpark preventing this service.
63. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure. Geotechnical aspects of the development work, namely:
 - Excavation methods and techniques appropriate to founding conditions,
 - Vibration management and monitoring,
 - Support and retention of excavated faces,
 - Hydrogeological considerations,

Must be undertaken in accordance with the recommendations of the "Preliminary Geotechnical Investigation Report for Proposed Residential Development at 497 to 507 Pacific Highway, Killara, NSW" by Jeffery and Katauskas Pty Ltd, reference 19531Vrpt, dated 28 June 2005, and all subsequent geotechnical inspections carried out during the excavation and construction phase. Approval must be obtained from all affected property owners, including Ku-ring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.
64. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the "Preliminary Geotechnical Investigation Report for Proposed Residential Development at 497 to 507 Pacific Highway, Killara, NSW" by Jeffery and Katauskas Pty Ltd, reference

Item 4

19531Vrpt, dated 28 June 2005. Over the course of the works a qualified Geotechnical/hydrogeological Engineer must complete the following:

- Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
- Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
- Written report(s) including certification(s) of the conducted geotechnical inspection, testing and monitoring programs.

Heritage

65. Colour Scheme

In order to minimise heritage impacts on the neighbouring draft heritage item and the UCA, the applicant is to submit a colour scheme and materials board to be approved by the Heritage Officer's satisfaction. Suggested colours for face brickwork are mid to dark brown and other colours should be neutral to dark tones so that the building appears visually recessive to the streetscape.

66. Demolition of Contributory buildings in UCA – 507 Pacific Highway, Killara

A report is to be submitted and approved to the heritage officer's satisfaction prior to commencement of the work and prior to issue of a Construction Certificate.

The report is to be prepared by a heritage consultant included in the NSW Heritage Office list of recognized consultants or other suitably qualified consultants who have knowledge and experience in preparing archival recording documents.

The report is to be a bound A4 report and must include copies of drawings submitted with the application including available site surveys and specialist reports such as heritage assessments, dilapidation report, and builders or engineers reports submitted with the application. Three copies of the report must be submitted, one copy with negatives. Any archival documents such as family records, old photographs should also be included.

All photographs to be to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. A photographic recording sheet must be included. Photographs of the following:

- Each elevation of the house and garage and each interior room of the house and garage.
- Photographs of specific details nominated by Council.
- All structures on site such as sheds, outhouses and significant landscape features.
- Several photographs of house from public streets or laneways including several views showing relationship to neighbouring buildings.

Minimum requirements:

Item 4

- Title page.
- Statement of reasons the recording was made.
- Location Plan showing relationship of site to nearby area.
- Site plan to scale (1:200 – 1:500) showing all structures and site elements.
- Floor Plan (sketch) of house and garage.
- Black & White archival quality photography, contact prints and selected prints (one copy with negatives other copies with contact sheets and selected prints).
- Colour slides (one set).

Digital images and CDs may be submitted as supplementary information.

67. Demolition of a non-heritage item or not in a UCA – Nos 497 & 499 Pacific Highway, Killara

A report is to be submitted and approved to the heritage officer's satisfaction prior to commencement of the work and prior to issue of a Construction Certificate.

The report is to be prepared by a heritage consultant included in the NSW Heritage Office list of recognized consultants or other suitably qualified consultants who have knowledge and experience in preparing archival recording documents.

The report is to be a bound A4 report. Three copies of the report must be submitted, one copy with negatives.

All photographs to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. Photographs of the following:

- Each elevation and selected interiors.
- All structures on site such as sheds, outhouses and significant landscape features
- Several photographs of house from public streets or laneways including several views showing relationship to neighbouring buildings.

Minimum requirements:

- Title page
- Statement of reasons the recording was made
- Site plan (survey or sketch) showing all structures and site elements
- Sketch of the floor plan showing the location of the camera for each photograph.
- Black & White archival quality photography, contact prints with negatives and selected prints (one copy of negatives other copies with contact sheets and selected prints)

Digital images and CDs may be submitted as supplementary information.

Landscaping

Item 4

68. 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.
69. Landscape works shall be carried out in accordance with Landscape Drawing No 27.05/069 prepared by Ian Jackson Landscape Architects Pty Ltd. and dated June 2005 submitted with the Development Application, except for the following changes:
- The maximum overall height of all courtyard fences including the retaining wall components shall not exceed 1.8 metres above natural ground level.
 - Private courtyards along the north-eastern boundary shall be reduced in width by 1.5 metres to ensure a greater amount of common landscaped area for the maintenance of privacy to No.2 Killara Avenue (as noted in red on the approved plans).

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.

70. Canopy and/or root pruning of the following tree/s which may be 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:

Tree/Location

Ficus microcarpa 'Hillii' (Hill's Fig)

Adjacent to north west site boundary in neighbouring property

Quercus robur (English Oak)

Adjacent to western/Pacific Hwy site frontage

71. 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.
72. 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

Ficus microcarpa 'Hillii' (Hill's Fig)

9.0m

Adjacent to north-west site boundary in neighbouring property

Quercus robur (English Oak)

5.0m

Adjacent to western/Pacific Hwy site frontage

Item 4

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

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

Tree/Location	Radius From Trunk
<i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to north-west site boundary in neighbouring property	9.0m

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

Tree/Location	Radius From Trunk
<i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to north-west site boundary in neighbouring property	11.0m
<i>Quercus robur</i> (English Oak) Adjacent to western/Pacific Hwy site frontage	7.0m

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

Tree/Location	Radius From Trunk
<i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to north-west site boundary in neighbouring property	9.0m
<i>Quercus robur</i> (English Oak) Adjacent to western/Pacific Hwy site frontage	5.0m

77. 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.

Item 4

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

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

79. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.

Note: Required if cost of works exceed \$25,000.00.

80. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
81. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
82. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.

Item 4

- b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
83. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF THIRTY-SEVEN (37) ADDITIONAL DWELLINGS IS CURRENTLY \$483,246.34. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1. Community Facilities	\$1 117.76
2. Park Acquisition and Embellishment Works	\$6 384.75
3. Sportsgrounds Works	\$1 318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

Engineering

84. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of

Item 4

the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure structures will not be placed across separate titles. Note that Ku-ring-gai Council does **not** necessarily need to endorse lot consolidation plans.

85. Prior to issue of the Construction Certificate, driveway and associated footpath levels for the new driveway crossing between the property boundary and road alignment must be obtained from the Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing. In accordance with RTA requirements, details of the proposed gutter crossing (layback) must be obtained from RTA Project Services Manager, Traffic Projects Section, Blacktown (ph 8814 2144). The driveway crossing is to have a minimum width of 6 metres for a minimum distance of 6 metres into the property, splaying out to 8 metres at the kerb alignment.

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

86. Prior to issue of the Construction Certificate the Applicant must submit, for approval by the Principal Certifying Authority, certified construction issue parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements - clearly dimensioned. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:
 - a. All parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply in full with Australian Standard 2890.1 – 2004 "Off-street car parking".
 - b. The driveway crossing has a minimum width of 6 metres for a minimum distance of 6 metres into the property, splaying out to 8 metres at the kerb alignment (in accordance with RTA requirements).
 - c. A clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement.

Item 4

- d. No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area.
 - e. The vehicle access and accommodation layout is to be constructed in accordance with the certified plans.
87. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document "*Managing Urban Stormwater – Soils and Construction, Volume 1*" (2004). A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47. The plans may be generally based on the Concept Environmental Site Management Plan, sheet C5(A) of job 343440 by AFCE, dated 20/06/05, submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.
88. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:
- Exact location and reduced level of discharge point to the public drainage system.
 - Full layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed to carry for the 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
 - Location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems. Where proprietary products are to be used, manufacturer specifications, contact numbers or equivalent products shall be provided.
 - Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing/holding facilities/first flush to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47.
 - Details of the required on-site detention tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
 - The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based on the Concept Stormwater Management Plans, sheets C1(A), C2(A), C3(A) and C4(A) of job 343440 by AFCE, dated

Item 4

20/06/05, submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.

89. Prior to the issue of a Construction Certificate the applicant must lodge a \$50,000 (fifty thousand dollar) public infrastructure damage bond with Council. This bond is applied pursuant to Section 97 of the *Local Government Act 1993* to cover the cost of:
- Making good any damage that may be caused to any public infrastructure as a consequence of doing or not doing any thing to which this approval relates,
 - Completing any works in the public domain that are required in connection with this approval.

The bond shall be lodged in the form of a deposit or bank guarantee and will be refundable following completion of all works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - b. The applicant has not repaired nor commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
 - c. Works in the public road associated with the development are to an unacceptable quality.
90. Prior to issue of the Construction Certificate the Applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, power pole relocation, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.
91. Prior to issue of the Construction Certificate the applicant must make contact with all relevant utility providers whose services will be impacted upon by the approved development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifying Authority, must be obtained. All utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage must be provided by the developer in accordance with the specifications of those supply authorities.

Special

92. An acoustic report shall be prepared by a suitably qualified person detailing the devices to be fitted and ongoing maintenance required, in relation to the automatic door to the garage, air-

Item 4

conditioning and car park ventilation system to ensure their operation does not result in the emission of noise in excess of 5dB(A) above background measured at the nearest residential property boundary. The report shall be provided for approval with the Construction Certificate and shall include recommendations with regard to the ongoing maintenance of the noise attenuating devices. Certification of compliance with the recommendations contained in the report shall be submitted to the Principal Certifying Authority prior to the release of the final compliance certificate or occupation certificate. The burden of ongoing maintenance of these noise attenuating measures shall remain with the Managing body of the development.

93. Any exhaust ventilation from the car parks is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1. Details demonstrating compliance are to be provided with the Construction Certificate (*Reason: To preserve community health and ensure compliance with acceptable standards*).
94. Four (4) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps; such features to be designed generally in accordance with Australian Standards 1428.1 and 4299. Details demonstrating compliance are to be submitted with the Construction Certificate. (*Reason: To ensure equity of access and availability of accommodation in the future for an ageing population*).
95. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the building and is not to be located on the roof. Details demonstrating compliance are to be submitted with the Construction Certificate application. (*Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality*).
96. To maintain the privacy and general amenity of No.2 Killara Avenue, a privacy screen 1.8 metres high shall be erected along the north-east elevation of Unit 37 on the penthouse level. The privacy screen shall span the length of the terrace (approximately 12 metres) as notated in red on approved plan number DA-05a.
97. 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. Retaining walls and associated drainage.
 - c. Wet area waterproofing details complying with the Building Code of Australia.
 - d. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Air-conditioning.
 - e. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.

Item 4

- f. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

Landscape

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

Fifty percent (50%) of the 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.

99. A CASH BOND/BANK GUARANTEE of \$6 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Ficus microcarpa 'Hillii' (Hill's Fig) \$4 000.00
Adjacent to north-west site boundary in neighbouring property

Quercus robur (English Oak) \$2 000.00
Adjacent to western/Pacific Hwy site frontage

100. To preserve the following tree/s, footings of the proposed entry pavillion shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 50mm shall be severed or injured in the process of any site works during the construction period. The beam shall be located on or above existing soil levels.

Item 4

The location and details of the footings shall be submitted to the principal certifying authority or approval prior to release of the Construction Certificate.

Tree/Location	Radius in Metres
<i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to north-west site boundary in neighbouring property	9.0m

Engineering

101. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure structures will not be placed across separate titles. Note that Ku-ring-gai Council does **not** necessarily need to endorse lot consolidation plans.
102. Prior to issue of the Construction Certificate, driveway and associated footpath levels for the new driveway crossing between the property boundary and road alignment must be obtained from the Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing. In accordance with RTA requirements, details of the proposed gutter crossing (layback) must be obtained from RTA Project Services Manager, Traffic Projects Section, Blacktown (ph 8814 2144). The driveway crossing is to have a minimum width of 6 metres for a minimum distance of 6 metres into the property, splaying out to 8 metres at the kerb alignment.

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

103. Prior to issue of the Construction Certificate the Applicant must submit, for approval by the Principal Certifying Authority, certified construction issue parking layout plan(s) to scale

Item 4

showing all aspects of the vehicle access and accommodation arrangements - clearly dimensioned. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- a. All parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply in full with Australian Standard 2890.1 – 2004 “Off-street car parking”.
 - b. The driveway crossing has a minimum width of 6 metres for a minimum distance of 6 metres into the property, splaying out to 8 metres at the kerb alignment (in accordance with RTA requirements).
 - c. A clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement.
 - d. No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area.
 - e. The vehicle access and accommodation layout is to be constructed in accordance with the certified plans.
104. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document “*Managing Urban Stormwater – Soils and Construction, Volume 1*” (2004). A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47. The plans may be generally based on the Concept Environmental Site Management Plan, sheet C5(A) of job 343440 by AFCE, dated 20/06/05, submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.
105. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:
- Exact location and reduced level of discharge point to the public drainage system.
 - Full layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed to carry for the 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
 - Location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems. Where proprietary products are to be used, manufacturer specifications, contact numbers or equivalent products shall be provided.

Item 4

- Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing/holding facilities/first flush to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47.
- Details of the required on-site detention tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
- The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based on the Concept Stormwater Management Plans, sheets C1(A), C2(A), C3(A) and C4(A) of job 343440 by AFCE, dated 20/06/05, submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.

106. Prior to the issue of a Construction Certificate the applicant must lodge a \$50,000 (fifty thousand dollar) public infrastructure damage bond with Council. This bond is applied pursuant to Section 97 of the *Local Government Act 1993* to cover the cost of:

- Making good any damage that may be caused to any public infrastructure as a consequence of doing or not doing any thing to which this approval relates,
- Completing any works in the public domain that are required in connection with this approval.

The bond shall be lodged in the form of a deposit or bank guarantee and will be refundable following completion of all works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b. The applicant has not repaired nor commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- c. Works in the public road associated with the development are to an unacceptable quality.

107. Prior to issue of the Construction Certificate the Applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, power pole relocation, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of Energy Australia shall be reflected on the

Item 4

plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

108. Prior to issue of the Construction Certificate the applicant must make contact with all relevant utility providers whose services will be impacted upon by the approved development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifying Authority, must be obtained. All utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage must be provided by the developer in accordance with the specifications of those supply authorities.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

109. 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.

Landscaping

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

Tree/Location	Radius From Trunk
<i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to north-west site boundary in neighbouring property	9.0m
<i>Quercus robur</i> (English Oak) Adjacent to western/Pacific Hwy site frontage	5.0m

111. 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.
112. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

Engineering

113. Prior to the commencement of **any excavation works** on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full

Item 4

dilapidation report on the visible (including colour photos) and structural condition of all adjacent structures potentially influenced by the works. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavation depth, founding material and boundary offset for the proposal together with the recommendations of the submitted "Preliminary Geotechnical Investigation Report for Proposed Residential Development at 497 to 507 Pacific Highway, Killara, NSW" by Jeffery and Katauskas Pty Ltd, reference 19531 Vrpt, dated 28 June 2005 (page 6). The dilapidation report must be verified by all relevant stakeholders. Upon submitting a copy of the dilapidation report to Council, a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

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

1. A plan view of the entire site and frontage roadways indicating

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- Location of any proposed crane standing areas,
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible

2. Traffic Control Plan(s) for the site

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

3. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided.

Item 4

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

In addition, the plan must address:

- Installation of a “No Stopping” zone over the site frontage to RTA approval.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school drop-off/collection periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel’s vehicles do not impact on the current parking demand in the area.

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

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

Item 4

116. Prior to the commencement of any works on site the applicant shall submit to Ku-ring-gai Council a full dilapidation report on the visible and structural condition (**including a colour photographic record**) of the following public infrastructure:

- a. Southbound Pacific Highway road pavement width, including kerb and gutter, over the site frontage, extending 20 metres either side of the frontage.

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

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

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this respect, the infrastructure damage bond lodged by the subject developer may be used by Council to repair damage regardless. A written acknowledgment from Council engineers must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

117. An acoustic report shall be prepared by a suitably qualified person detailing the devices to be fitted and ongoing maintenance required, in relation to the automatic door to the garage, air-conditioning and car park ventilation system to ensure their operation does not result in the emission of noise in excess of 5dB(A) above background measured at the nearest residential property boundary. The report shall be provided for approval prior to the release of the Occupation Certificate or final Compliance Certificate and shall include recommendations with regard to the ongoing maintenance of the noise attenuating devices.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

118. 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.

Engineering

Item 4

119. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:

- New concrete driveway crossing and layback in accordance with levels and specifications issued by Council and RTA.
- Removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
- Full repair and resealing of any road surface damaged during construction.
- Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

120. Prior to issue of the Occupation Certificate the following must be provided to Council (attention Development Engineer):

- a. A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
- b. A copy of any works-as-executed drawings required under this consent
- 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 applies particularly where the appointed Principal Certifying Authority (PCA) is not Ku-ring-gai Council.

121. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.
122. Prior to issue of an Occupation Certificate the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:
- a. That the as-constructed carpark complies with the approved Construction Certificate plans,
 - b. That the driveway crossing has a minimum width of 6 metres for a minimum distance of 6 metres into the property, splaying out to 8 metres at the kerb alignment.

Item 4

- c. That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 “Off-Street car parking”.
 - d. That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
 - e. That no doors, gates, grilles or other structures 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 and collection area.
 - f. That the vehicular headroom requirements of:
 - Australian Standard 2890.1 - “Off-street car parking”,
 - 2.44m height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement carpark.
123. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification (based on the site inspection) for the approval of the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:
- a. That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
 - b. That the minimum retention and on-site detention storage volume requirements of Ku-ring-gai Council Water Management DCP 47, have been achieved in full.
 - c. That retained water is connected and available for uses including all toilet flushing, cold laundry and garden irrigation.
 - d. That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
 - e. That all grates potentially accessible by children are secured.
 - f. That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 (2003) and the BCA, and
 - g. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The following certification sheets **must be accurately completed and attached** to the certification:

- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47
 - On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.
124. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The

Item 4

WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:

- As built (reduced) surface and invert levels for all drainage pits.
- Gradients of drainage lines, materials and dimensions.
- As built (reduced) level(s) at the approved point of discharge to the public drainage system.
- As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.
- The achieved storage volumes of the installed retention and detention storages and derivative calculations.
- As built locations of all access pits and grates in the detention and retention system(s), including dimensions.
- The size of the orifice or control fitted to any on-site detention system.
- Dimensions of the discharge control pit and access grates.
- The maximum depth of storage possible over the outlet control.
- Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

The WAE plan(s) must show the as-built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked **in red** on a copy of the Principal Certifying Authority stamped construction certificate stormwater plans.

125. Prior to issue of the Occupation Certificate a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.
126. Prior to issue of the Occupation Certificate a suitably qualified and consulting geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation, inspection, monitoring and construction for the basement levels have been carried out:
 - a. According the relevant Australian Standards and guidelines, and
 - b. According to the recommendations of the Geotechnical report and subsequent geotechnical inspections undertaken for the development, and
 - c. In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.
127. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring as specified in the "Preliminary Geotechnical Investigation Report for Proposed Residential Development at 497 to 507 Pacific Highway, Killara, NSW" by Jeffery and Katauskas Pty Ltd, reference 19531Vrpt, dated 28 June 2005, and the professional geotechnical input over the course of the works, must be compiled in report format and be submitted to the Principal Certifying Authority for approval.

Item 4

Landscaping

128. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
129. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.

BUILDING CONDITIONS

130. 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.
131. 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.
132. 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.

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

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

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

Item 4

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

134. 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 & Air-conditioning.
 - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - d. Storm-water disposal details complying with Council's Storm-water Management Manual and/or other conditions of this consent.
 - e. A Compliance Certificate from a suitably qualified person that the residential flat buildings complies with the relevant deemed to satisfy provisions of the Building Code of Australia.
 - f. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.
 - g. A Registered Surveyor's Report on completion of footings but before external walls are above floor level verifying compliance with this consent.

C Swanepoel
Executive Assessment Officer

R Kinninmont
Team Leader
Development Assessment – South

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation

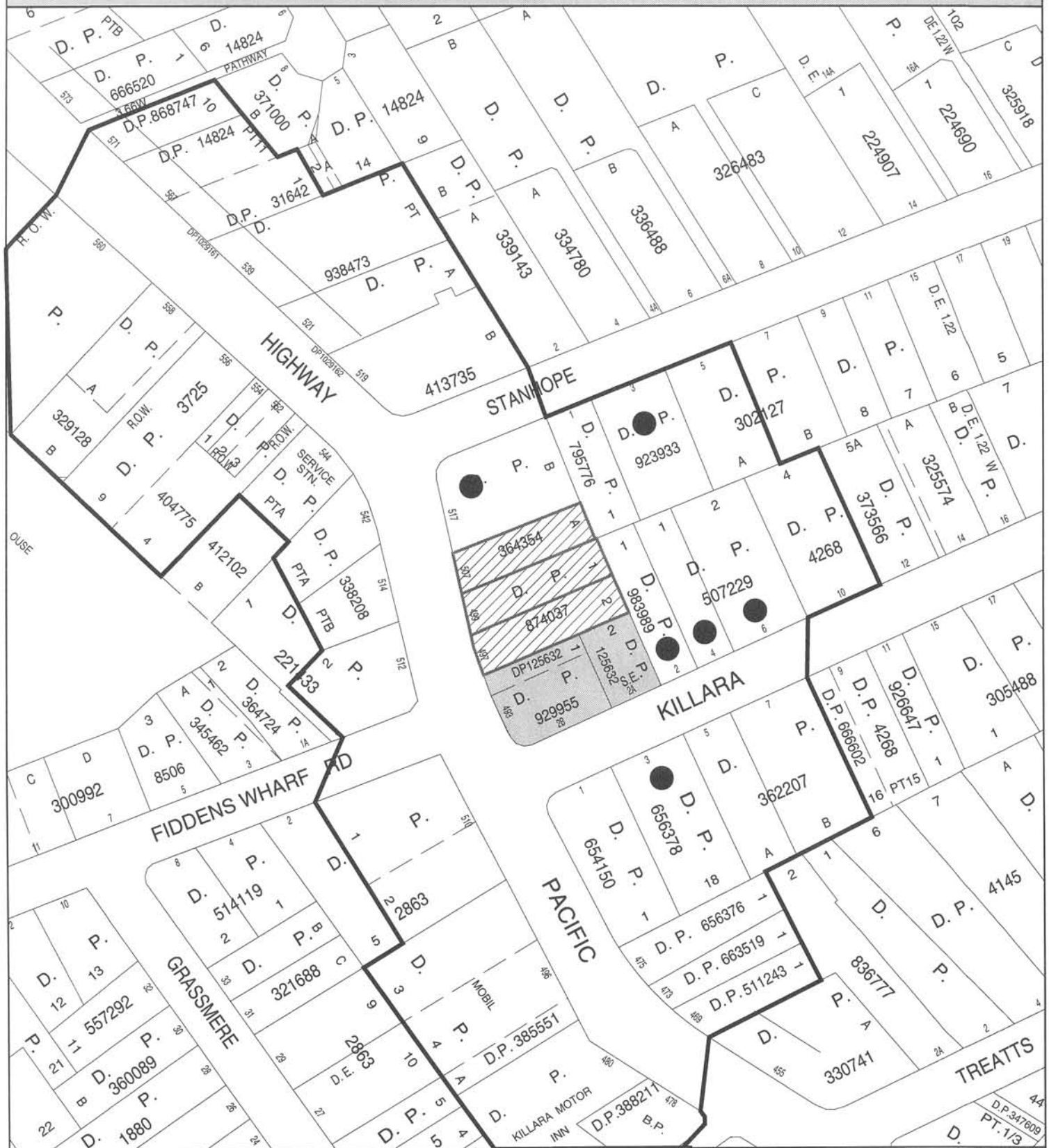
Attachments:

- Location Sketch - 548956**
- Zoning Extract - 548958**
- Site Survey Plan - 548960**
- Basement Floor Plans - 548962**
- Elevation & Section Plans - 548964**
- Shadow Diagrams - 548966**
- Landscape Plan - 548965**

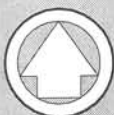
LOCATION SKETCH

497 - 507 Pacific Highway, KILLARA NSW

DEVELOPMENT APPLICATION No 651/05



NOTE : APPLICATION FOR A RESIDENTIAL
FLAT BUILDING UNDER CONSIDERATION



Scale : 1:2000

28-10-2005



OBJECTION



SUBJECT LAND

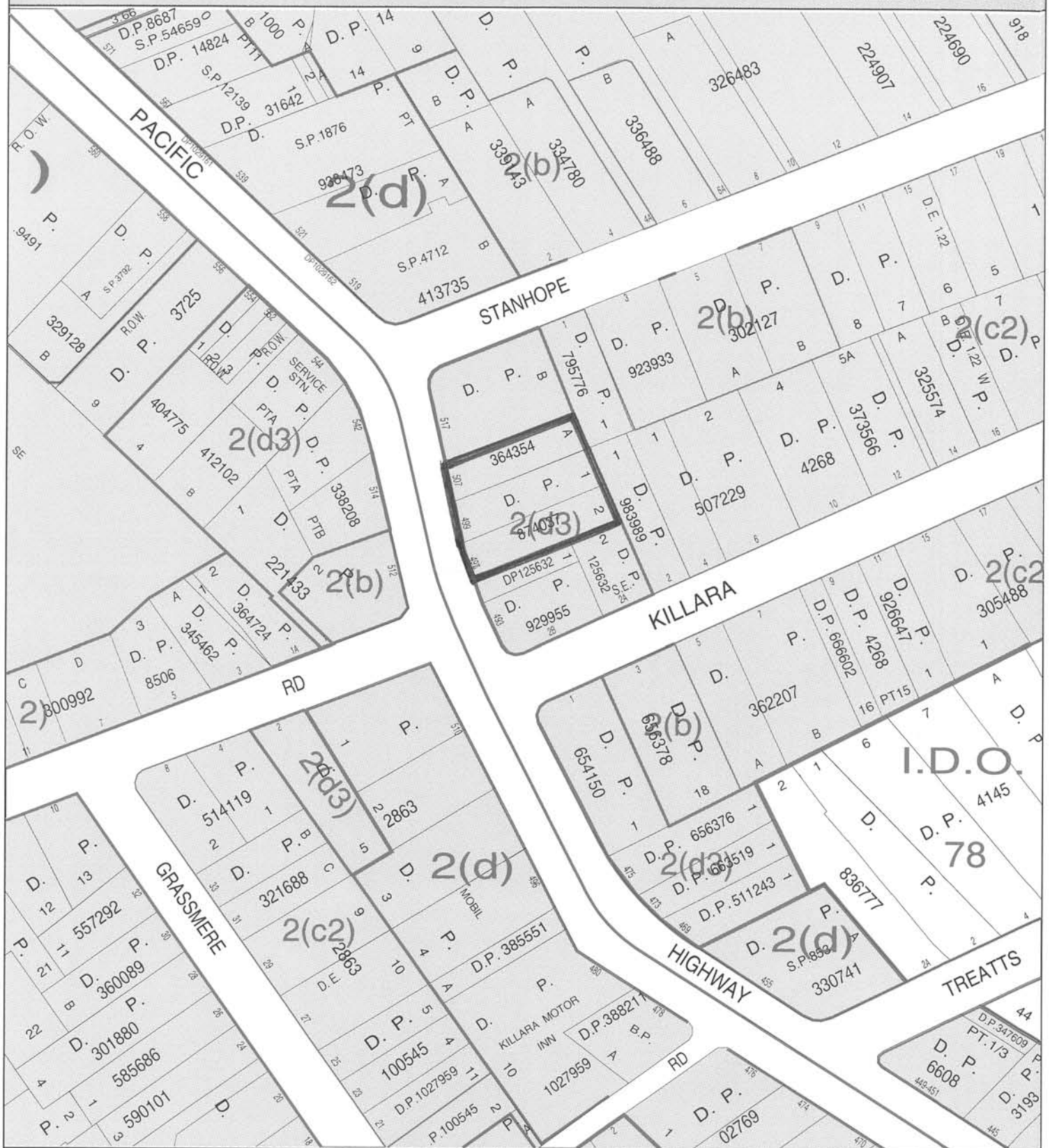


CIRCULATED AREA



Zoning Extract

497-507 PACIFIC HWY KILLARA DA 651/05

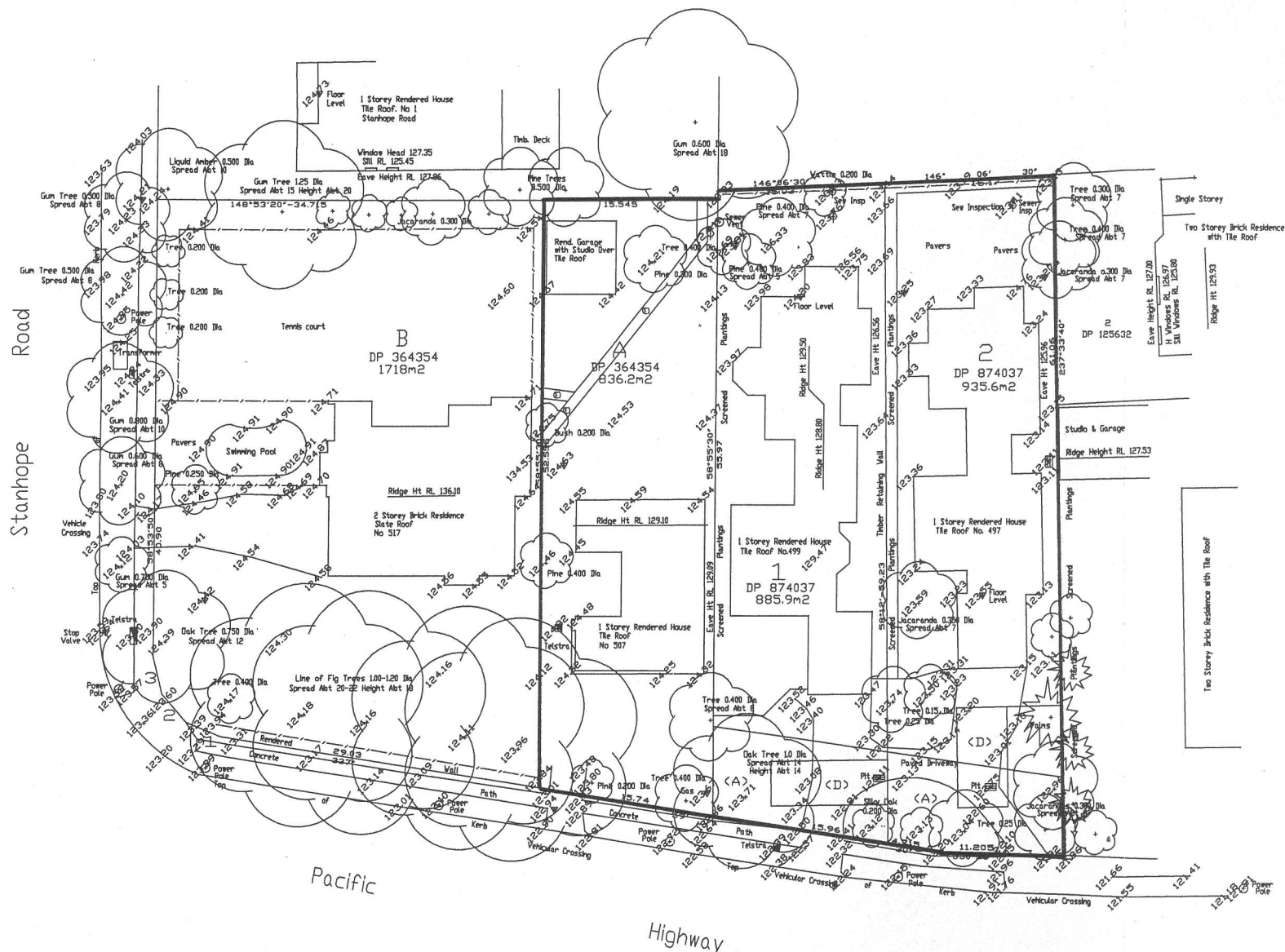
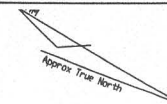


28-10-2005

Scale = 1:2000

- EXISTING COUNTY ROAD
- RESIDENTIAL 2(c)
- RESIDENTIAL 2(c2)
- RESIDENTIAL 2(d3)
- SPECIAL USES 5(a) (Schools etc)
- SPECIAL USES 5(b) (Railway)





1	351°29'30"-3.335
2	18°26'-3.335
3	45°24'-3.335

Site BM PM NO 292
RL 121.470 AHD

(A) RIGHT OF ACCESS VARIABLE WIDTH
(D) STORMWATER DETENTION TANK
(E) EASEMENT TO DRAIN WATER 0.915 WIDE D979384

THIS SURVEY IS FOR DETAIL AND LEVEL PURPOSES ONLY AND AS SUCH THE BOUNDARIES HAVE NOT BEEN MARKED OR SURVEYED.
ALL SERVICES SHOULD BE CHECKED BY THE CONTRACTOR BEFORE ANY EXCAVATION OR BUILDING.
THE BEARINGS ON THIS PLAN ARE TO MEAN MERIDIAN TAKEN FROM RECORDS AT THE LAND TITLES OFFICE. SHOULD TRUE NORTH BE DESIRED A FURTHER SURVEY WOULD BE REQUIRED.

FILE NO: D
JOB NO: 4055

DATE:10/03/04
SCALE:1:200

PROJECT: No 497-516 Pacific Highway Killara
CLIENT: Staldone Developments

DRAWING: Site Detail & Level Survey
DATUM: Australian Height Datum

T.J GILBERT & ASSOCIATES
LAND AND ENGINEERING SURVEYORS

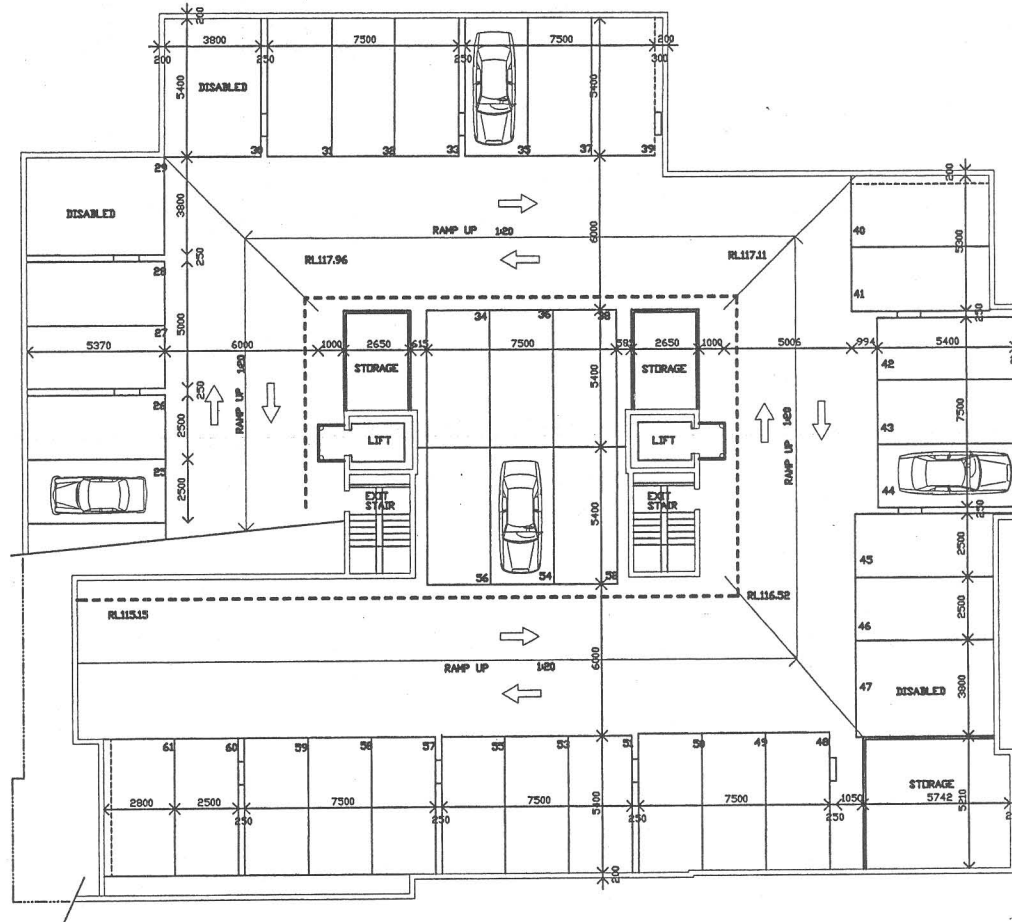
6 PAUL AVENUE ST IVES NSW 2075
TEL: 9402 7443 FAX: 9402 7435



WOLSKI LYCENKO & BRECKNOCK ARCHITECTS
115 MILITARY ROAD NEUTRAL BAY 2089
TEL : 9953 8477 FAX : 9953 8557

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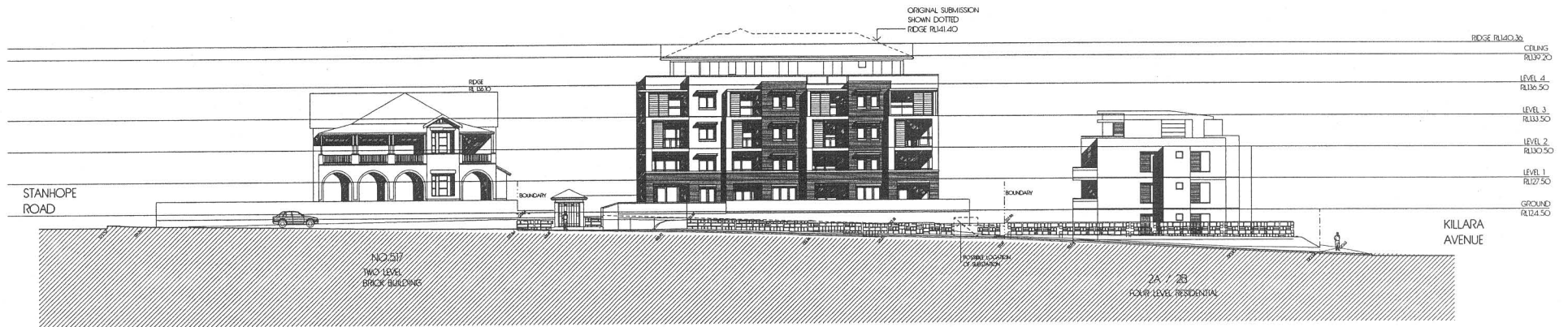


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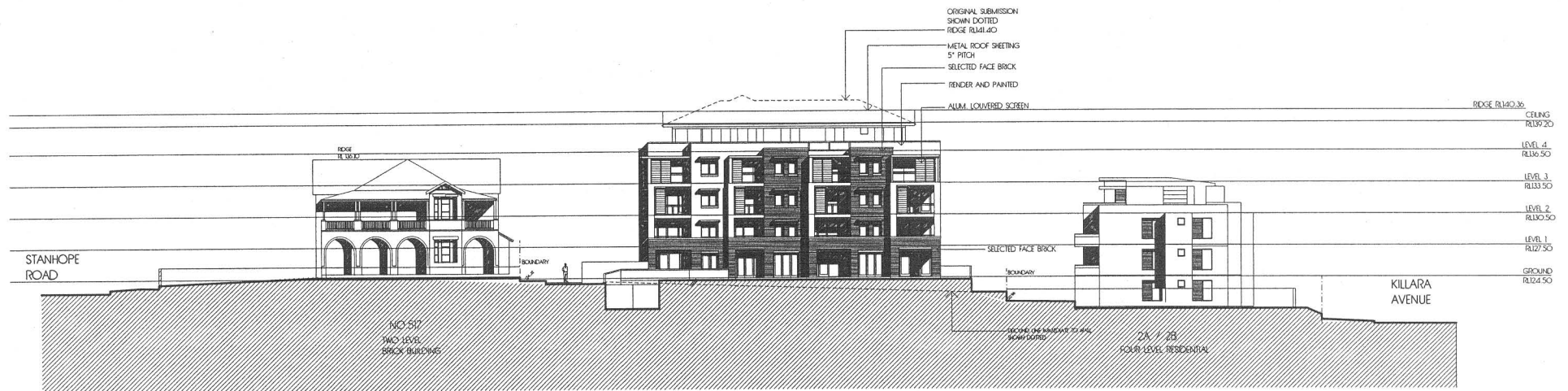
RESIDENTIAL DEVELOPMENT
PACIFIC HIGHWAY, KILLARA
WOLSKI LYCENKO & BRECKNOCK ARCHITECTS
115 MILITARY ROAD NEUTRAL BAY 2089
TEL 9953 8477 FAX 9953 8537

LOWER BASEMENT

DA-01
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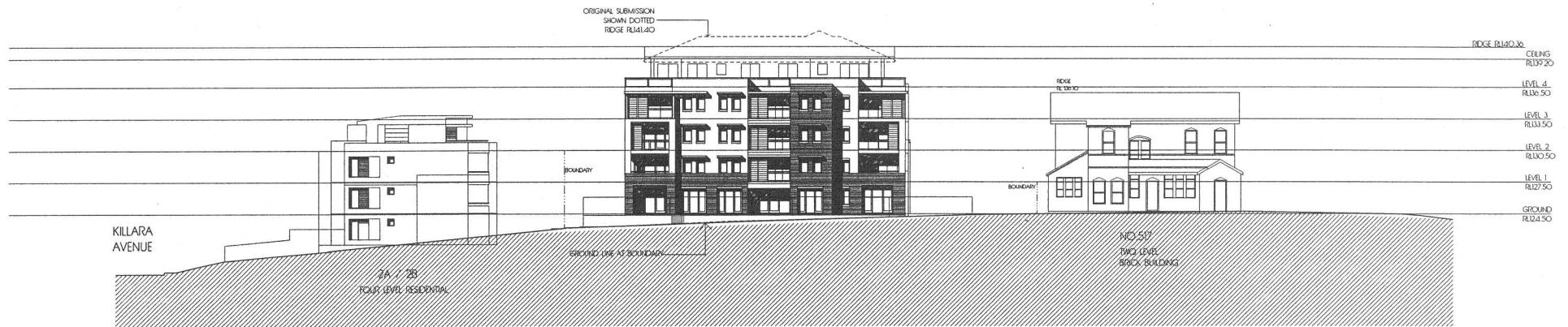


PACIFIC HIGHWAY ELEVATION



WEST ELEVATION

DA ISSUE



EAST ELEVATION

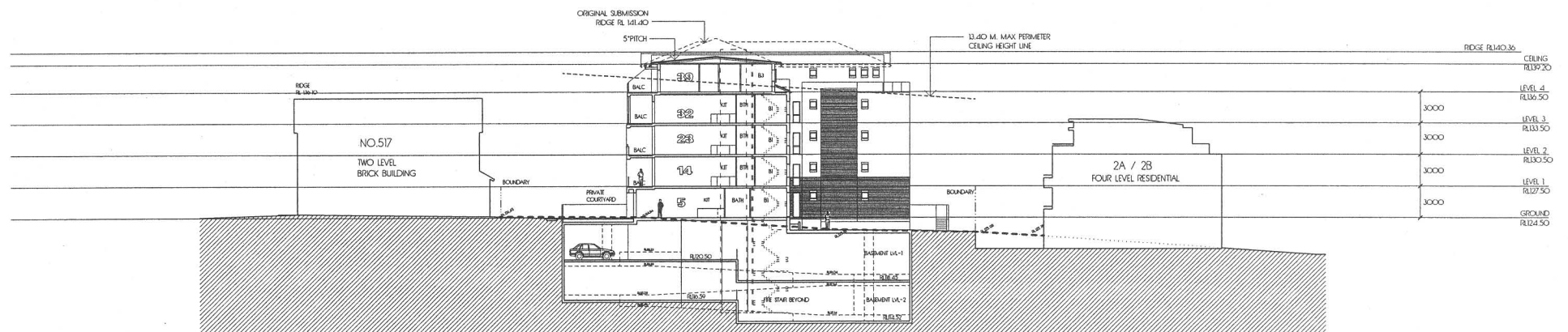


NORTH ELEVATION

DA ISSUE



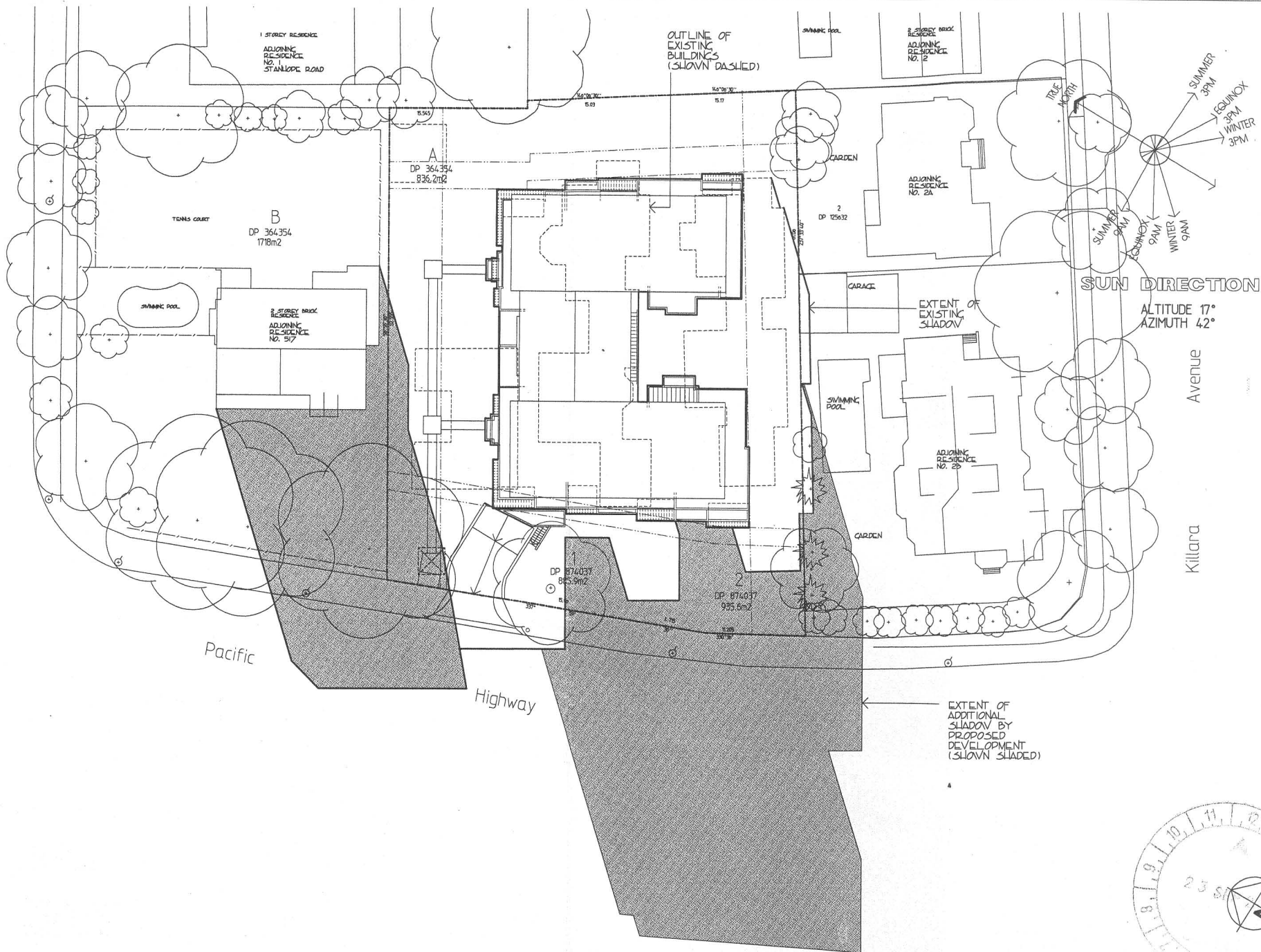
SOUTH ELEVATION



SECTION AA

DA ISSUE

Stanhope Road



DA ISSUE

CLIENT:
KILLARA PACIFIC PTY. LTD.

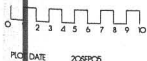
RESIDENTIAL DEVELOPMENT
497 - 507 PACIFIC HIGHWAY, KILLARA

WOLSKI LYCENKO & BRECKNOCK ARCHITECTS
115 MILITARY ROAD NEUTRAL BAY 2089
TEL : 9953 8477 FAX : 9953 8557

SHADOW DRAWING
9 AM JUNE 21 WINTER

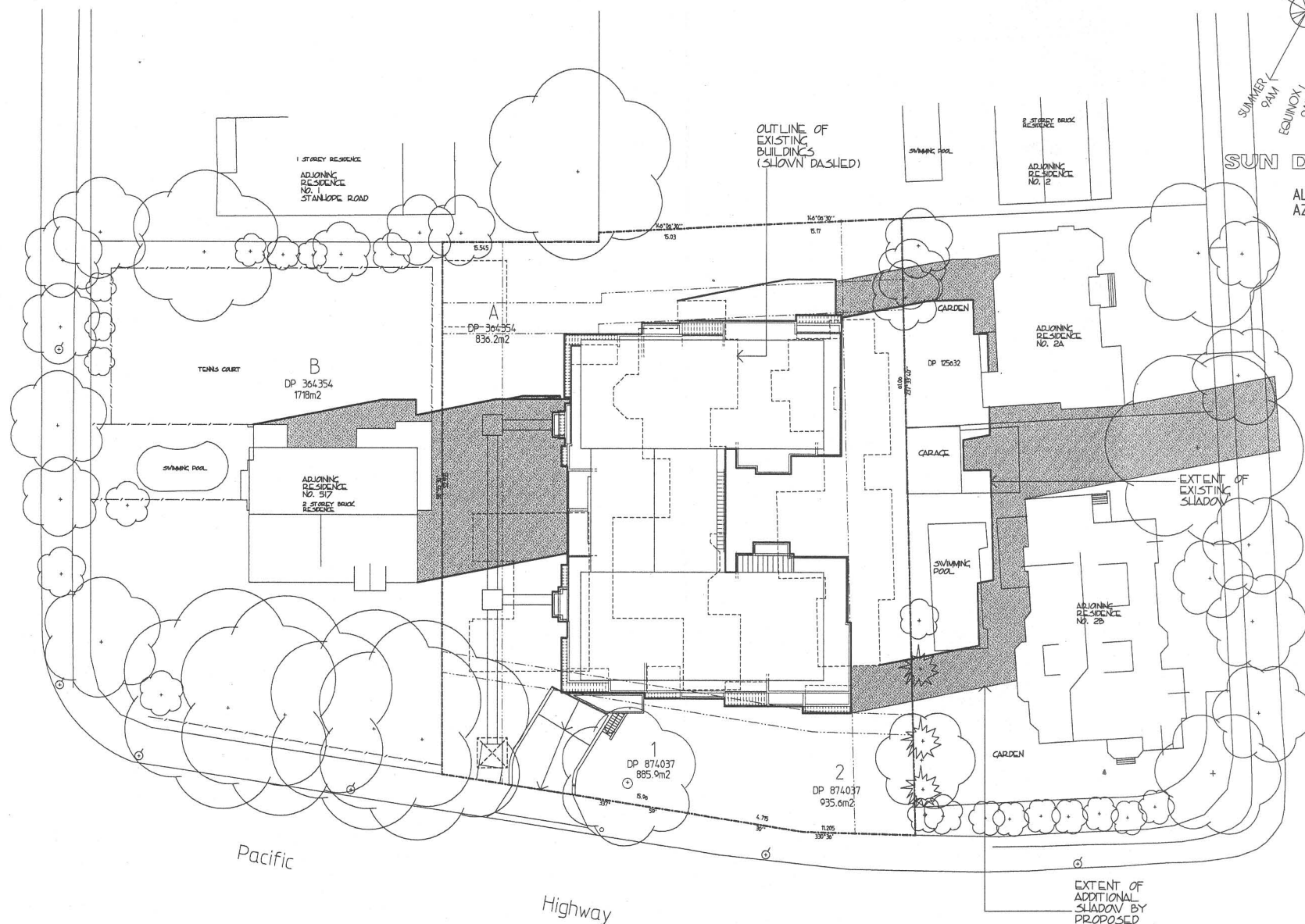
SH/01A W

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DATE 20SEP05

Stanhope Road



CLIENT:
KILLARA PACIFIC PTY. LTD.

RESIDENTIAL DEVELOPMENT
497 - 507 PACIFIC HIGHWAY, KILLARA
WOLSKI LYCENKO & BRECKNOCK ARCHITECTS
115 MILITARY ROAD NEUTRAL BAY 2089
TEL : 9953 8477 FAX : 9953 8557

SHADOW DRAWING
3 PM JUNE 21 WINTER

SH/03A W
2511

SCHEDULE OF EXISTING TREES

KEY	BOTANICAL NAME	COMMON NAME	HEIGHT & SPREAD
12	<i>Ficus microcarpa</i> Mill.	Walla Weeping Fig	15 x 18m
25	<i>Chamaecyparis obtusa</i> 'Compacta'	Golden Cypress	8 x 6m
26	<i>Ligustrum lucidum</i>	Broad Leaf Privet	6 x 6m
27	<i>Cupressus sempervirens</i>	Italian Cypress	7 x 6m
28	<i>Cassiope Cunninghamhamii</i>	River She Oak	12 x 6m
29	<i>Acacia baileyana</i>	River She Oak	11 x 7m
30	<i>Brachyotum laetifolium</i>	Silly Wattle	1 x 6m
31	<i>Brachyotum laetifolium</i>	Blowdown Flame	9 x 6m
32	<i>Brachyotum laetifolium</i>	Silly Wattle	12 x 6m
33	<i>Brachyotum laetifolium</i>	Silly Wattle	6 x 3m
34	<i>Brachyotum laetifolium</i>	Evergreen Alder	3 x 6m
35	<i>Brachyotum laetifolium</i>	Evergreen Alder	10 x 7m
36	<i>Brachyotum laetifolium</i>	Golden Holm	6 x 6m
37	<i>Brachyotum laetifolium</i>	Jacaranda Tree	9 x 10m
38	<i>Brachyotum laetifolium</i>	Bird of Paradise	10 x 6m
39	<i>Brachyotum laetifolium</i>	Tomato Willow	7 x 3m
40	<i>Brachyotum laetifolium</i>	Jacaranda Tree	7 x 6m
41	<i>Brachyotum laetifolium</i>	Golden Holm	6 x 6m
42	<i>Brachyotum laetifolium</i>	Camellia	1 x 5m
43	<i>Brachyotum laetifolium</i>	Camellia	7 x 2m
44	<i>Brachyotum laetifolium</i>	Camellia	12 x 7m
45	<i>Brachyotum laetifolium</i>	Camellia	8 x 6m
46	<i>Brachyotum laetifolium</i>	Camellia	12 x 6m
47	<i>Brachyotum laetifolium</i>	Camellia	12 x 6m
48	<i>Brachyotum laetifolium</i>	Camellia	12 x 6m
49	<i>Brachyotum laetifolium</i>	Camellia	12 x 6m
50	<i>Brachyotum laetifolium</i>	Camellia	12 x 6m
51	<i>Brachyotum laetifolium</i>	Camellia	12 x 6m
52	<i>Brachyotum laetifolium</i>	Camellia	12 x 6m

Existing Plant Schedule list obtained from Tree Assessment Report prepared by Piersley & Associates.

SCHEDULE OF PLANT MATERIAL

CODE	BOTANICAL NAME	QUANTITY	HEIGHT	POT SIZE	STAGES
AC	<i>Argemone coccinea</i>	2	20m	25 litre	2
ACA	<i>Arctostaphylos curvinghamensis</i>	3	18m	2m bush	2
ACB	<i>Arctostaphylos curvinghamensis</i>	2	18m	1m bush	2
ACD	<i>Arctostaphylos curvinghamensis</i>	2	18m	0.5m bush	2
AE	<i>Arctostaphylos curvinghamensis</i>	12	0.2m	8 litre	2
AF	<i>Azalea indica</i>	6	6m	6 litre	2
AG	<i>Asplenium nidus</i>	6	13m	25 litre	2
AH	<i>Asplenium nidus</i>	6	6m	8 litre	2
AI	<i>Asplenium nidus</i>	6	6m	8 litre	2
AJ	<i>Asplenium nidus</i>	6	6m	8 litre	2
AK	<i>Asplenium nidus</i>	6	6m	8 litre	2
AL	<i>Asplenium nidus</i>	6	6m	8 litre	2
AM	<i>Asplenium nidus</i>	6	6m	8 litre	2
AN	<i>Asplenium nidus</i>	6	6m	8 litre	2
AO	<i>Asplenium nidus</i>	6	6m	8 litre	2
AP	<i>Asplenium nidus</i>	6	6m	8 litre	2
AQ	<i>Asplenium nidus</i>	6	6m	8 litre	2
AR	<i>Asplenium nidus</i>	6	6m	8 litre	2
AS	<i>Asplenium nidus</i>	6	6m	8 litre	2
AT	<i>Asplenium nidus</i>	6	6m	8 litre	2
AV	<i>Asplenium nidus</i>	6	6m	8 litre	2
AW	<i>Asplenium nidus</i>	6	6m	8 litre	2
AX	<i>Asplenium nidus</i>	6	6m	8 litre	2
AY	<i>Asplenium nidus</i>	6	6m	8 litre	2
AZ	<i>Asplenium nidus</i>	6	6m	8 litre	2
BA	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BB	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BC	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BD	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BE	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BF	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BG	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BH	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BI	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BJ	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BK	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BL	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BM	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BN	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BO	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BP	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BQ	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BR	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BS	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BT	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BU	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BV	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BW	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BX	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BY	<i>Banksia integrifolia</i>	6	13m	25 litre	2
BZ	<i>Banksia integrifolia</i>	6	13m	25 litre	2
CA	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CB	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CC	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CD	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CE	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CF	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CG	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CH	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CI	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CJ	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CK	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CL	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CM	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CN	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CO	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CP	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CQ	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CR	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CS	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CT	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CU	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CV	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CW	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CX	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CY	<i>Callistemon citrinus</i>	6	13m	25 litre	2
CZ	<i>Callistemon citrinus</i>	6	13m	25 litre	2
DA	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DB	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DC	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DD	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DE	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DF	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DG	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DH	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DI	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DJ	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DK	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DL	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DM	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DN	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DO	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DP	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DQ	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DR	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DS	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DT	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DU	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DV	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DW	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DX	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DY	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
DZ	<i>Dalmanella integrifolia</i>	6	13m	25 litre	2
EA	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EB	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EC	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
ED	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EE	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EF	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EG	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EH	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EI	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EJ	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EK	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EL	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EM	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EN	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EO	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EP	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EQ	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
ER	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
ES	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
ET	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EU	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EV	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EW	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EX	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EY	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
EZ	<i>Eucalyptus globulus</i>	6	13m	25 litre	2
FA	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FB	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FC	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FD	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FE	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FF	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FG	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FH	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FI	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FJ	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FK	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FL	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FM	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FN	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FO	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FP	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FQ	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FR	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FS	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FT	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FU	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FV	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FW	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FX	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FY	<i>Ficus microcarpa</i>	6	13m	25 litre	2
FZ	<i>Ficus microcarpa</i>	6	13m	25 litre	2
GA	<i>Grevillea robusta</i>	6	13m	25 litre	2
GB	<i>Grevillea robusta</i>	6	13m	25 litre	2
GC	<i>Grevillea robusta</i>	6	13m	25 litre	2
GD	<i>Grevillea robusta</i>	6	13m	25 litre	2
GE	<i>Grevillea robusta</i>	6	13m	25 litre	2
GF	<i>Grevillea robusta</i>	6	13m	25 litre	2
GH	<i>Grevillea robusta</i>	6	13m	25 litre	2
GI	<i>Grevillea robusta</i>	6	13m	25 litre	2
GJ	<i>Grevillea robusta</i>	6	13m	25 litre	2
GK	<i>Grevillea robusta</i>	6	13m	25 litre	2
GL	<i>Grevillea robusta</i>	6	13m	25 litre	2
GM	<i>Grevillea robusta</i>	6	13m	25 litre	2
GN	<i>Grevillea robusta</i>	6	13m	25 litre	2
GO	<i>Grevillea robusta</i>	6	13m	25 litre	2
GP	<i>Grevillea robusta</i>	6	13m	25 litre	2
GQ	<i>Grevillea robusta</i>	6	13m	25 litre	2
GR	<i>Grevillea robusta</i>	6	13m	25 litre	2
GS	<i>Grevillea robusta</i>	6	13m	25 litre	2
GT	<i>Grevillea robusta</i>	6	13m	25 litre	2
GU	<i>Grevillea robusta</i>	6	13m	25 litre	2
GV	<i>Grevillea robusta</i>	6	13m	25 litre	2
GW	<i>Grevillea robusta</i>	6	13m	25 litre	2
GX	<i>Grevillea robusta</i>	6	13m	25 litre	2
GY	<i>Grevillea robusta</i>	6	13m	25 litre	2
GZ	<i>Grevillea robusta</i>	6	13m	25 litre	2
HA	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HB	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HC	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HD	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HE	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HF	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HG	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HH	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HI	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HJ	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HK	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HL	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HM	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HN	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HO	<i>Hibiscus syriacus</i>	6	13m	25 litre	2
HP	<i>Hibiscus syriacus</i>	6	13m	25 litre	

9 TO 15 KINGS AVENUE, ROSEVILLE - SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To respond to issues raised at the Council site inspection and further matters raised after the site inspection and to seek Council's determination of the development application.

BACKGROUND:

- Application lodged 2 December 2004.
- Council considered a report at its meeting on 6 September 2005.
- Consideration pending site inspection which took place on 17 September 2005.

COMMENTS:

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

RECOMMENDATION:

Approval

PURPOSE OF REPORT

To respond to issues raised at the Council site inspection and further matters raised after the site inspection and to seek Council's determination of the development application.

BACKGROUND

- Application lodged 2 December 2004.
- Council considered a report at its meeting on 6 September 2005.
- Consideration pending site inspection which took place on 17 September 2005.
- Minutes of the Inspection Committee presented for confirmation on 27 September 2005.

COMMENTS

1. Building length

Staff to advise of the site specific precinct controls contained within Development Control Plan No.55 allowing for a building up to 60 metres in length.

The site specific Nola Road precinct controls do not include a specific control in relation to building length. The maximum length allowed under DCP 55 is 36 metres.

Whilst the total width of the proposed development is 53.6 metres, it comprises Building A – 20.5 metres, Building B – 25.1 metres, with a connecting lobby 8 metres in width and 17 metres in depth. The development presents as two separate buildings and satisfies the design controls of Part 4.4 Built Form and Articulation within Development Control Plan No.55.

2. Overshadowing

- a) **Staff to confirm that the dwelling located opposite the subject site on the corner of Kings Avenue and Alexander Parade will be overshadowed for less than 2 hours. In addition, Council Officers are to comment on the extent to which the deck associated with this dwelling will be overshadowed by the proposed development.**

The dwelling located opposite the subject site on the corner of Kings Avenue and Alexander Parade (No.1 Alexander Parade) will be overshadowed for less than 2 hours. The applicant has submitted an updated shadow analysis in relation to No.1 Alexander Parade which shows that the deck will not be overshadowed by the development.

- b) **Staff to request elevation shadow diagrams from the applicant to accurately determine the full extent of the overshadowing impact from the proposed development on the adjoining dwelling located at No.7 Kings Avenue and identify if habitable rooms will be affected.**

The applicant has submitted elevational shadow diagrams as requested (refer **attachment No.B1**). The analysis shows that the northern windows of No.7 Kings

Item 5

Avenue are not overshadowed by the development until midday, when the shadow will reach the sill. **Attachment B2** shows that the northern window on the western side will have solar access by 3pm which will provide a minor benefit.

3. Wall plane area

Staff to insert an appropriate condition to ensure the proposed 122 m² wall plane area is reduced to 81 m² to achieve compliance with Development Control Plan 55 – Built Form Controls. Staff to advise of the necessary amendments that would need to be undertaken by the applicant to achieve compliance with this condition.

In order to achieve compliance with the proposed condition, the subject wall plane of 122m² would require a redesign of the façade so that no portion of the façade would exceed an area of 81m² and that the remaining section or sections would have to vary in depth by at least 600mm.

The applicant, in support of the proposed façade of 122m² submits that it is effectively “internal” to the building, being 11 metres inward of the buildings eastern face, and its visibility to external view will be further restricted by its limited width of 7 metres. The wall plane is set back approximately 25 metres from the site’s eastern boundary and is well screened by both the existing and proposed landscaping. The applicant further advises that this glass curtain is to be of openable louvre construction and is therefore broken down into small elements which will be of varied appearance by virtue of their physical capacity to open in small independent sections.

The comments made by the applicant are supported and, consequently, it is not recommended that the wall plane be reduced in area to achieve strict compliance with Development Control Plan No.55. However, should Council wish to pursue the reduction in wall plane to 81m², then Council would need to impose the following condition:

The wall plane to the eastern façade of the glass lobby section of the building is to be amended to have a maximum wall plane area of 81m² as defined by Part 4.4 of Development Control Plan No.55. Details to be provided to the accredited certifier prior to the issue of the Construction Certificate.

4. Blue Gum Creek

- a) Staff to insert an appropriate condition to ensure full compliance with the required 15 metres riparian buffer zone to Blue Gum Creek and advise of necessary amendments that would need to be undertaken by the applicant to achieve compliance with this condition.**

In order to achieve compliance with the 15 metres re-vegetation zone of Blue Gum Creek the north-eastern corner of the proposed building would have to be set back approximately 7 metres from its current extremity which is the north-eastern corner of the deck of Unit 1.01. Compliance with the above would also significantly impact upon Units 2.01, 2.02 and 3.01. It is the opinion of staff that the objectives of the DCP are

Item 5

satisfied in the design of the development. However, should Council wish to enforce a 15m setback, then the application in its current form could not be amended by condition. As such, Council would need to defer the matter and request amended plans from the applicant.

- b) **Staff to confirm the distance between the proposed development and the centre line of Blue Gum Creek and request that the applicant provide the riparian zone shaded on an A3 plan with a clear depiction of the centre line of Blue Gum Creek to be attached with further documentation to be submitted to Council. The closest point of the building to the centre of Blue Gum Creek is to be dimensioned from any structure including balconies or terrace areas.**

The distance from the north-east corner of the deck of Unit 1.01 is 8.5 metres. The applicant has submitted a diagram (see **Attachment C**) prepared by Fitzpatrick and Partners Architects depicting the proposed building in relation to the Blue Gum Creek control within Development Control Plan No.55 (figure 19).

5. Height

Staff to advise if Council has the discretion to refuse the proposed additional (6th) storey despite LEP 194 allowing additional height on steeply sloping sites for up to 25% of the building footprint.

The height control in Clause 25m of LEP194 is a non-discretionary development standard. Council cannot legally refuse the development on the basis of a sixth storey where this standard is complied with.

6. Traffic generation

- a) **The applicant is to provide sight lines for vehicular access to the site in Kings Avenue to demonstrate an acceptable level of pedestrian and vehicular safety.**

The applicant has undertaken an inspection of sight distance to the north, at the location of the proposed northern most driveway, and found it to be some 70 metres (with the clearing of obscuring low level vegetation to the north of the site) around the bend from Maclaurin Parade into Kings Avenue (see **Attachment D**). This sight distance is sufficient to ensure safe pedestrian and vehicular movements.

- b) **It was requested that Council write to the Minister and the RTA regarding the intersection of Maclaurin Parade and the Pacific Highway. The Minister and the RTA should be made aware of the increased traffic likely to be created by the proposal development and other medium density development in the Residential 2(d3) zone and the need for associated upgrades to the Maclaurin Parade/Pacific Highway intersection to improve current traffic management in the Roseville area.**

This matter will be referred to the appropriate officer for referral to the Minister and the RTA.

Item 5

- c) **Staff to advise if the speed limit in Kings Avenue has been the subject of review with respect to the possibility of installing speed bumps and/or other traffic calming devices.**

Council's Development Control Engineer advises that the sign and rumble strips at the corner of King's Avenue and Maclaurin Parade were installed as a result of a Traffic Committee decision in January 2004, because of concerns about vehicles crossing onto the wrong side of the road while negotiating the bend. No record could be found in relation to concerns about speed in Kings Avenue.

With regard to speed bumps, Council's Urban and Environmental Assets Committee at its meeting of 11 September 2001, resolved not to approve or install new traffic schemes consisting of speed bumps or raised thresholds, for the reasons of impact on resident amenity compared to alternative treatments. Traffic calming devices need to be installed as part of a local area plan, not in isolation.

- d) **Staff to confirm that access to the proposed development will not be directly opposite driveways in Kings Avenue to ensure minimal traffic conflict.**

The driveway of the proposed development, which provides access to Basement 2, is located directly opposite the driveway of No.1 Alexander Parade. The fact that the two driveways oppose each other does not create any vehicular conflicts in respect of traffic movements nor does it give rise to any potential safety issues.

7. Deep soil planting

- a) **Staff to confirm the exact area of deep soil planting on the site in square metres and outline what has and what has not been included as part of the calculation of deep soil area.**

The area of deep soil proposed is 1787m² or 53.8%. Refer to **Attachment E** for the areas included as deep soil. These areas fall within the definition of "deep soil landscaping" in LEP 194.

8. Scale model

It was noted that adjoining buildings shown on the model submitted with the DA 1285/04, do not appear to be modelled to scale. All models submitted to Council should be to scale.

The applicant advises that the adjoining buildings are depicted on the scale model in accordance with the specific built form provisions of the LEP and the Development Control Plan, supplemented by the site-specific controls devised by Council and formally adopted after statutory notification and exhibition.

Item 5

9. Utility infrastructure

Staff to confirm that all utility infrastructure will be undergrounded as part of this development proposal.

The applicant advises that it is understood and accepted that the aerial power lines down the Kings Avenue frontage will be undergrounded at the applicant's expense, thereby requiring the replacement of existing street trees (**refer Condition No.114**).

10. Noxious weeds

- a) **Staff to provide an explanation of the environmental impacts associated with the retention of some or all of the Coral trees (for screening purposes). Furthermore, staff to provide consideration of staged removal and replacement of Coral trees, in particular the Coral tree located near the sewer inspection manhole in the north-eastern corner of the site.**

Council's Landscape Development Officer has advised as follows:

The mature Coral trees are located within the proposed riparian zone surrounding the piped watercourse. The primary environmental impact given the trees' maturity, is that they seed prolifically and send up suckers, increasing their dominance within the riparian zone. The seeds have the capacity to be carried downstream where they invade bushland and dominate native plant species, preventing endemic plant species to grow.

The species is listed within Council's Weed Management Policy as an Urban Environmental Weed and under that policy are required to be removed. The species is also exempt under Council's Tree Preservation Order and can be removed at any time.

If the trees are allowed to remain with staged removal, they will hinder the establishment of the proposed landscape planting and significantly reduce the new plantings' capacity to survive. This is primarily due to the amount of shadow cast from the dense canopy and the amount of moisture the dominant trees extract from the ground. New plantings without the Coral trees will establish and mature faster, have stronger growth and in the short term will provide a new landscape setting which is to be made up totally of endemic Sydney Bluegum High Forest plant species.

Tree #17 (Coral tree) located adjacent to the north-eastern site corner is immediately adjacent to a mature Eucalyptus saligna (Bluegum). Its removal will benefit the Bluegum greatly as there will be reduced competition for moisture and light, which both presently compete for.

11. Impact on Lot 10, DP 9864 Nola Road.

- a) **The applicant is requested to provide survey levels of the adjoining property at Lot 10, DP 9864, No.1 Nola Road.**

Item 5

The applicant has provided survey levels of Lot 10, DP 9864, No.1 Nola Road (refer **Attachment F**). The survey shows that the entrance patio to the dwelling is at RL 89.65 and the private open space paved terraces located at the rear of the site are RL 89.5 and RL 87.92.

The above levels are located above the proposed adjoining finished ground level areas of private open space located in the development site. The corresponding areas in the development site being 400mm lower at RL 89.10 from the neighbour's paved terrace at RL 89.5 and 1.68 metres lower at RL 86.24 from the neighbour's paved terrace at RL 87.92. The eastern terrace located off Unit 3.04 has a finished floor level of 87.325 which is 2.2 metres lower than the neighbour's private open space terrace at level 89.5.

- b) Staff to confirm the setback between the existing two storey dwelling at Lot 10, DP 9864, No.1 Nola Road and the proposed development, including the minimum setback and maximum setback, as well as the average setback.**

The minimum setback of the proposed development is as follows:

From the south-eastern corner of the elevated deck of Unit 4.04 to the south-western corner of the dwelling at Lot 10, DP 9864, No.1 Nola Road, the distance is 12.35 metres. From the south-eastern corner of the edge of the building line to the south-western corner of the dwelling, the distance is 14.87 metres.

The average distance from the building line of the eastern side of the proposal to the centre of the western side of the dwelling is 20 metres.

The maximum distance from the north-eastern corner of the proposed building to the north-western corner of the dwelling is 36 metres.

- c) The applicant is requested to provide an indication of the appearance of the proposed development as viewed from the courtyard level of Lot 10, DP 9864, No.1 Nola Road.**

The applicant has not provided a photomontage of the appearance of the proposed development as viewed from the courtyard level of No.1 Nola Road, the eastern elevation is drawing A-303E.

The applicant advises that it is unavoidable that any residential flat building sitting within the Council's stipulated footprint (figure 18 of DCP 55) will have windows and balconies facing east.

The applicant has submitted photographs of the existing screen plantings between the two buildings, demonstrating their effectiveness (refer **Attachment G**).

- d) Staff to provide an indication of the number of windows and/or balconies which overlook Lot 10, DP 9864, No.1 Nola Road and whether they service living rooms and or bedrooms.**

The windows that overlook No.1 are 14 bedroom windows and 9 en-suite windows.

The number of balconies that overlook No.1, Lot 10, DP 9864 are 9 balconies off living rooms, 4 balconies off kitchens and 4 balconies off bedrooms.

The separation between the buildings, together with the existing significant stand of canopy trees and future landscaping, will ensure that the privacy of 1 Nola Road is not adversely affected.

- e) **Staff to confirm if a dilapidation report has been requested for the adjoining dwelling at Lot 10, DP 9864, No.1 Nola Road.**

A dilapidation report has not been requested for the adjoining dwelling at No.1 Nola Road due to the separation between the buildings which is a minimum of 12.35 metres.

- f) **Staff to consider if a condition is required to address potential reflection from the lift well glazing.**

Condition No.113 addresses the potential reflection from the lift well glazing.

12. Landscaping

Council's Landscape Officer is to provide clarification of the proposed middle and lower level landscape screen planting within the front setback and to ensure that appropriate understorey planting is also provided together with screening in front of fences (where applicable).

Middle and lower level screen planting within the front setback will consist of a mixed planting of native shrubs, grasses and groundcovers. Heights will vary, but will gain a maximum height of approximately 4.0m beneath the canopy of tall trees. A total of nineteen (19) trees are proposed to be planted within the front setback which will provide sufficient screening of the development. Planting closer to the site's side boundaries will increase to reach a height of approximately 5.0m beneath a proposed canopy of tall native trees.

It should be noted that no front fences are proposed.

13. Pedestrian access

Staff to investigate and comment on the implications of extending the pedestrian pathway from Kings Avenue into Maclaurin Parade, having regard to the position of the Blue Gum Creek and any likely constraints.

The extension of the footpath around into Maclaurin Parade has not been required in the recommended conditions for the same reason that kerb and gutter along the Maclaurin Parade was not required. There are four or five large Eucalypts in the kerb line and the associated earthworks could damage their root systems.

14. Building separation

Staff to identify all adjoining dwellings within 12 metres of the proposed building including any privacy issues that affect habitable rooms at either No.7 Kings Avenue or Lot 10, DP 9864, No.1 Nola Road.

No. 7 Kings Avenue is the only dwelling within 12 metres of the proposed building. There is 9 metres separation between the proposed building and the dwelling at No.7 Kings Avenue.

The southern face of the proposed building has highlight windows, with sill heights being a minimum of 2 metres above floor level and, consequently, this will prevent overlooking to the adjoining property to the south.

ADDITIONAL ISSUES RAISED POST SITE INSPECTION

Further to the issues raised at the site inspection, the following issues have been raised by Jennifer Badger of 4 Kings Avenue, and, at the request of Councillor E Malicki consideration of these issues has been included in the report:

- a) **Council should undertake an independent inspection on the gum tree near Kings Avenue as the tree does not have any more fungi than any other tree in the area.**

Council's Landscape Development Officer has advised that he has reinspected the site and looked at the two trees in question. Although tree #10 Eucalyptus saligna (Bluegum) is visually significant within the existing streetscape setting, the tree has numerous faults and large limbs have previously failed. Ian English the applicant's arborist has detailed the concerns he has relating to the tree and observed the presence of an adult fruiting bracket which is a symptom of fungal infection. Mr English acknowledges the loss of the tree would have impacts on the streetscape, but has recommended its removal due to the presence of cavities and fungal diseases. He acknowledges that there is also a beehive within the tree indicating the presence of a large cavity, which is probably the continued progression of the fungal infection into the main trunk. He notes that there is significant hazard problems in retaining the tree. Council's Landscape Development Officer concurs with the applicant's arborist recommendations and can support the tree's removal.

With regard to tree #11 Syncarpia glomulifera (Turpentine), although the tree has previously been heavily pruned for overhead wires and is of poor form, the tree is being retained as part of the development proposal and not removed as Ms Badger states.

The site forms part of a remnant Sydney Blue Gum High Forest. Under the EPBC Act, Blue Gum High Forest is a critically endangered ecological community. As such, approval under the Act is required.

Item 5

b) Requests an independent consultant prepare a precise shadow plan.

The applicant has prepared updated shadow plans prepared by Fitzpatrick and Partners Architects. These plans have been checked by staff and are considered to be accurate. The matter relating to overshadowing is addressed in Item 2 earlier in this report.

c) The airbrush photos of the development are extremely misleading and requests street view photos.

The applicant has provided a photo montage of the proposed development from a view point located opposite the dwelling located at No.7 Kings Avenue. The photo montage, together with the elevations and sections submitted is adequate information for assessment purposes.

d) DCP 55 states that the top floor must not contribute any overshadowing to the neighbouring properties. The shadowing diagrams for this development are extremely unclear and this needs to be clarified.

The design controls for solar access in DCP 55 do not include any reference to the top floor, nor that it cannot contribute any overshadowing to the neighbouring properties.

Notwithstanding the above, the shadow diagrams submitted indicate that the top floor contributes to the overshadowing of No.7 Kings Avenue but only after 3.00pm.

e) The DCP for the Nola Road Precinct is very clear on design controls and states that the upper 2 levels should be recessed from the main façade and should read as being recessive and lighter. This does not occur in this design.

Design control C-5(iv) of Part 7.1.5 Building Articulation of DCP55 states; “The upper 2 levels should be recessed from the main façade and should read as being recessive and lighter. They should assist in the creation of a patterned skyline; integrating service elements such as plant and lift overruns into the building form”. The upper two levels are recessed from the main façade and read as recessive and lighter due to the greater setbacks and use of glass.

f) The use of large overhanging roofs are suggested to add scale and proportion to the building and provide shade. This block of flats have a flat roof, totally out of character with the rest of the area.

Design control C-4 of Part 7.1.5 Building Articulation of DCP55 states; “Large overhanging roofs can add scale and proportion to the building and provide a useful shading device. The overhanging roofs of the two upper levels add to the scale and proportion to the building and also provide shading to windows. The control does not prohibit or discourage flat roofs.

g) Whether Blue Gum Creek meets the definition of a watercourse as defined by Council’s Riparian Policy.

Council’s Riparian Policy defines watercourse as follows:

Item 5

Watercourse (including a river, stream or creek) is any natural drainage line that flows constantly or occasionally within a definable channel or system of discontinuous channels (eg. "chain-of-ponds") or watercourse/wetland systems, or any watercourse that was once natural and has been modified or diverted.

It is the opinion of staff that the piped section of Blue Gum Creek is not a watercourse. Furthermore, the development satisfies the aims of the DCP and Riparian Policy in that the existing piped gully is to be revegetated in this proposal.

h) Why are there two car park entrances?

The two car park entrances are required to provide access to the separate basement car parks which are located at different levels.

i) Rockbolts should be restrained from entering neighbouring properties.

Where rock anchors are required, the consulting geotechnical engineer advises that they are temporary until the floor slabs are used to prop the basement walls for the long term condition. If temporary ground anchors are required to extend beyond the property boundary it will be necessary to obtain approval from the neighbouring property owners to extend the anchors onto their property.

j) All employees associated with the construction of the building should park only on the site.

Prior to the commencement of any works, the applicant is required to submit for review by Council Engineers, a construction site layout plan, which includes the provision of on-site parking for employees, tradesperson and construction vehicles. It is not practical to require all employees to park on the site due to the different completion stages of the construction process and that private vehicles are entitled to park on local roads.

k) Blue Gum High Forest

Under the Act, significant impact upon the Blue Gum High Forest should be referred to the Minister for assessment and approval.

Council's Landscape Officer has reviewed this issue and advises:

The site in question is highly disturbed, being private residential properties for many years. The site has been modified through level changes, construction of dwellings, swimming pools and associated structures, in addition to significant horticultural improvements through clearing and the establishment of traditional gardens with grassed areas and formal garden beds primarily planted with exotic shrub species. The site has no SBHF understorey, but does have individual tree species consistent with SBHF. There are many weed tree species on site, primarily along the piped water course gully (which is not identified within Council's Riparian Policy).

Item 5

Under the Commonwealth listing for SBHF the site would come under 'Single isolated trees or stands, characteristic of the canopy of SBHF, without a native understorey. However, due to being severely modified, they fall outside the definition of this ecological community and do not form part of the listing'.

I do not think that the site needs to be referred to the Commonwealth, as it does not fit the definition, and does not adjoin bushland.

CONCLUSION

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

RECOMMENDATION

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

THAT the Council, as the consent authority, grant development consent to DA 1285/04 for the demolition of existing structures and the construction of a residential flat building comprising 23 units including basement parking on land at 9-15 Kings Avenue, Roseville, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

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

Dwg No.	Rev.	Description	Author	Dated	Lodged
A-002	A	Photo Montage	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-003	A	Entry Perspective	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-101	A	Location Plan	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-102	A	Survey Plan	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-103	A	Site Analysis	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-104	A	Existing Building Use	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-105	A	Existing Circulation	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-106	A	Existing Open Space	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-107	A	Opportunities analysis	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-108	C	Building Edges	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-109	C	Landscape Response	Fitzpatrick & Partners	26 November 2004	18 July 2005
A-110	B	Building Performance	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-111	C	Deep Soil Planting	Fitzpatrick & Partners	26 November 2004	18 July 2005
A-112	B	Access & Parking	Fitzpatrick & Partners	19 October 2004	18 July 2005

Item 5

A-113	D	Landscape Area & Site Cover	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-114	B	Sun Diagrams – equinox	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-115	C	Sun Diagrams – June	Fitzpatrick & Partners	8 July 2005	18 July 2005
SK24	A	Level 1 Basement	Fitzpatrick & Partners	17 August 2005	18 August 2005
SK25	A	Level 2 Basement	Fitzpatrick & Partners	17 August 2005	18 August 2005
SK26	A	Level 3 Entry	Fitzpatrick & Partners	17 August 2005	18 August 2005
A-204	C	Level 4	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-205	C	Level 5	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-206	C	Level 6	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-207	D	Level 7	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-208	C	Level 8	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-209	C	Roof	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-301	A	West Elevation Montage	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-302	C	West Elevation	Fitzpatrick & Partners	26 November 2004	18 July 2005
A-303	E	East Elevation	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-304	C	North Elevation	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-305	C	South Elevation	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-401	D	Section A-A	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-501	A	Detailed Entry Plan	Fitzpatrick & Partners	19 October 2004	18 July 2005
SK03	J	Landscape Plan	McGregor & Partners	December 2004	22 April 2005
SK06	A	Section B-B	Fitzpatrick & Partners	14 July 2005	18 July 2005
SK07	A	Section C-C	Fitzpatrick & Partners	14 July 2005	18 July 2005
SK08	B	Diagramatic Section 1	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK09	B	Diagramatic Section 2	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK10	B	Diagramatic Section 3	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK27	A	Detail Section 5	Fitzpatrick & Partners	17 August 2005	18 August 2005
SK12	B	Area Diagram L5	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK13	B	Area Diagram L6	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK14	B	Area Diagram L7	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK15	B	Area Diagram L8	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK16	A	Typical Accessible Plan	Fitzpatrick & Partners	14 July 2005	18 July 2005
SK17	B	Front Boundary Setback Level 1 Basement	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK18	B	Front Boundary Setback Level 2 Basement	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK19	B	Front Boundary Setback Level 3 Entry	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK20	B	Front Boundary Setback Level 4	Fitzpatrick & Partners	5 July 2005	18 July 2005

- Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to Council's stormwater pipe in Maclaurin Parade via the approved site stormwater management system. New drainage line connections to the street

Item 5

system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.

3. A mandatory rainwater re-use tank system of minimum volume 69m³ as shown in Patterson Britton & Partners Stormwater Management Plan, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. DCP47 is available in hard copy at Council and on the Council website. A mains top-up shall be provided for periods of low rainfall.
4. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
5. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
6. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
7. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
8. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to 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.

Item 5

9. 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”.
10. 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.
11. 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.
12. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
13. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
14. A convex mirror is to be provided on the bend at the entry to the lower level carpark.
15. The works are to be carried out in accordance with the recommendations given in Douglas Partners Report 37412, dated October 2004, and subsequent geotechnical reports, including regular inspections during excavation works and geotechnical review of structural drawings and details.
16. 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.
17. Landscape works shall be carried out in accordance with Landscape Drawing No 01 Rev L, & 03 Rev B prepared by McGregor Partners and dated April 2005 submitted with the Development Application, except as amended by the following:

Item 5

- The provision of substantial planting in the 6m wide deep soil area located on the southern side of the building.
 - The removal of the sun deck, seating area and associated decking in order to achieve the 1682 square metres of deep soil landscaping. The area being soft landscaped similar to the adjoining areas.
18. REMOVAL of the existing tree/s from Council's nature strip in front of the development site in Kings Ave shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.
19. 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.
20. 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:
- Tree/Location
- #02 *Angophora costata* (Sydney Redgum)
Adjacent to the north east site corner
- #06 *Eucalyptus pilularis* (Blackbutt)
Centrally located in rear garden
- #08 *Eucalyptus saligna* (Bluegum)
Centrally located in rear garden
- #11 *Syncarpia glomulifera* (Turpentine)
Adjacent to southern site boundary on the Kings Ave nature strip
21. 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.
22. 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
#02 <i>Angophora costata</i> (Sydney Redgum) Adjacent to the north east site corner	5.0m
#04 <i>Eucalyptus paniculata</i> (Grey Ironbark) Adjacent to north eastern/rear site boundary	3.0m

Item 5

#05 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to north eastern/rear site boundary	4.0m
#06 <i>Eucalyptus pilularis</i> (Blackbutt) Centrally located in rear setback	5.0m
#08 <i>Eucalyptus saligna</i> (Bluegum) Centrally located in rear garden	4.5m
#11 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to southern site boundary on the Kings Ave nature strip	3.0m

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

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

Tree/Location	Radius From Trunk
#08 <i>Eucalyptus saligna</i> (Bluegum) Centrally located in rear garden	8.0m
#11 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to southern site boundary on the Kings Ave nature strip	6.0m

24. 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.
25. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Kings Ave. The trees are to be planted as a formal evenly spaced avenue planting. The tree/s used shall be 25 litre container size specimen/s grown from progeny stock.

Tree Species

Eucalyptus saligna (Bluegum) x 6

26. Following removal of the existing trees from Council's Kings Ave nature strip in front of the development site, the nature strip shall be rehabilitated to the satisfaction of Council's Director Open Space at no cost to Council.

Item 5

27. 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.
28. 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)
Cinnamomum camphora (Camphor laurel)
Cotoneaster sp. (Cotoneaster)
Erythrina sp. (Coral Trees)
Hedychium gardnerianum (Ginger lily)
Hedera helix (English Ivy)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)
Lonicera japonica (Honeysuckle)
Nephrolepis cordifolia (Fishbone fern)
Tradescantia albiflora (Wandering Jew)
Zantedeschia aethiopica (Arum Lily)

29. The applicant is advised that Energy Australia advise that an electrical substation is to be established on the premises and an area to satisfy Energy Australia's conditions for a kiosk type substation or arrange for the construction of a building type substation that may be more appropriate.
30. The spill from any lighting is to be maintained within the site in accordance with AS 4282-1997 : Control of obtrusive effects of outdoor lighting.
31. Drying areas being provided on balconies or a discreet drying area being provided in the communal landscaped area.
32. "Peep holes" shall be provided to enhance all units for personal safety.
33. 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.
34. 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.
35. 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.

Item 5

36. 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.
37. **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.

38. 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.
39. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
40. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
41. 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.
42. 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.
43. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.

Item 5

44. 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.

45. 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.

46. 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.
47. If the work involved in the erection or demolition of a building:
- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

48. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
49. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.

Item 5

50. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
51. 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.
52. 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.

53. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
54. 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.
55. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
56. 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.

Item 5

57. 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.
58. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
59. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
60. 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.
61. 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.
62. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
63. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
64. Noise emission from the mechanical ventilation system including fan units is not to exceed the background noise level when measures at the nearest property boundary.

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

65. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing four lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. The condition is imposed to ensure a continuous structure will not be placed across separate titles.

Item 5

66. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossings between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.** The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

67. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
68. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater retention/detention system. The storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. The design may be generally in accordance with the stormwater management plan Figure 2 prepared by Patterson Britton, advanced as necessary for construction issue purposes.
69. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, carwashing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use shall be shown on this design to a detail suitable

Item 5

for installation by the plumbing contractor. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.

70. A dedicated carwashing area is to be shown on the Construction Certificate plans. The waste collection vehicle manoeuvring area or a visitor parking bay may be used for this facility. The plans are to be approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
71. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47. New connection points to the public drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004.
72. **Prior** to the issue of a Construction Certificate the applicant shall lodge a **\$50,000** (fifty thousand dollars) public infrastructure damage bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
 - a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - b) The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
 - c) Works in the public road associated with the development are to an unacceptable quality.
73. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

Item 5

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.

74. A cash bond/bank guarantee of \$18 000.00 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

#01 Jacaranda mimosifolia (Jacaranda) \$1 000.00
Adjacent to the south eastern site corner

#02 Angophora costata (Sydney Redgum) \$2 000.00
Adjacent to the north east site corner

#03 Eucalyptus saligna (Bluegum) \$2 000.00
Adjacent to north eastern/rear site boundary

#04 Eucalyptus paniculata (Grey Ironbark) \$1 000.00
Adjacent to north eastern/rear site boundary

#05 Eucalyptus pilularis (Blackbutt) \$2 000.00
Adjacent to north eastern/rear site boundary

#06 Eucalyptus pilularis (Blackbutt) \$2 000.00
Centrally located in rear setback

#08 Eucalyptus saligna (Bluegum) \$4 000.00
Centrally located in rear garden

#11 Syncarpia glomulifera (Turpentine)\$2 000.00
Adjacent to southern site boundary on the Kings Ave nature strip

#12 Eucalyptus saligna (Bluegum) \$2 000.00
Adjacent to western site corner on Kings Ave nature strip

75. 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.

Item 5

Note: Required if cost of works exceed \$25,000.00.

76. 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).
77. 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.
78. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
79. 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.

Item 5

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF NINETEEN (19) ADDITIONAL DWELLINGS IS CURRENTLY \$432,201.07. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1. Community Facilities	\$1,117.76
2. Park Acquisition and Embellishment Works - Roseville	\$6,384.75
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

80. The decks to units 3.03, 4.03, 5.03, 6.01 and 7.01 being in accordance with drawings SK21, SK22 and SK23 so that they are not less than 4.5 metres from the centre of the trunk of tree number 8. The basement carpark being set back from the southern site boundary in accordance with drawings SK24A, SK25A, SK26A and SK27A. Details to be included with the Construction Certificate plans.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

81. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
82. 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.

Item 5

83. Prior to the commencement of any works on site the applicant shall submit to **Council** a full dilapidation report on the visible (including photos) and structural condition of Maclaurin Parade, Corona Avenue and Kings Avenue including full road width, kerb and gutter, and the intersection. The report must be completed by a consulting structural/civil engineer. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council. Other Council roads in the area are not available for construction traffic apart from vehicles less than 3.0 tonne gross unless written approval is received from Council and a dilapidation report has been completed on the roads.

84. Prior to the commencement of any works on site and prior to issue of the Construction Certificate, the applicant shall submit to the Principal Certifying Authority (PCA) and Council a full dilapidation report on the visible and structural condition of the existing structure at 7 Kings Avenue.

The report must be completed by a consulting structural/geotechnical engineer. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

85. Prior to the commencement of any excavation works on site, the applicant must submit to the Principal Certifying Authority the results of the excavation trials and vibration monitoring as recommended in section 6.2 of Douglas Partners Report 37412, dated October 2004. This is to ensure that vibration created by the method of construction does not adversely impact on the surrounding properties and infrastructure. A qualified and practising geotechnical engineer must oversee the excavation trials and all associated investigations. Excavation is to proceed in accordance with the recommendations of the geotechnical engineer.

86. Prior to the commencement of any works on site the applicant must submit, for review by Council Engineers, a **construction site layout plan**. This is to entail a plan view of the entire site and frontage roadways indicating scale locations for:

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and vehicles in the frontage roadway,
- All traffic is to use Maclaurin Parade and Kings Avenue. No site traffic is to enter or leave via Corona Avenue.
- Turning areas within the site for construction vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in Kings Avenue,
- Warning signs in Maclaurin Parade of siteworks ahead;
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking for employees, tradesperson and construction vehicles

Item 5

The construction site layout plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained and submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. The traffic management measures contained in the approved plan shall be implemented in accordance with the above plans prior to the commencement of any works on-site including excavation.

87. Prior to the commencement of any works on site, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install a 'Work Zone' along the Kings Avenue frontage of the site. Further, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed and the adopted fee paid prior to commencement of any works on the site. Where such a 'Work Zone' is not considered to be feasible by Council Traffic Engineers, the zone will not be required. This condition is to facilitate a dedicated on-street parking area for construction related vehicles during work hours. A need for a 'Work Zone' arises given the scale of the works, existing on-street parking restrictions around the site and the existing high demand for on-street parking in this location.
88. Prior to the commencement of any works on site, the Applicant must liaise with Council's Urban Forest Officer to arrange for the vegetation between the northern driveway entrance and MacLaurin Parade to be trimmed to provide a clear line of sight for vehicles manoeuvring into and out of the site.
89. 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
#01 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to the south eastern site corner	5.0m
#03 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to north eastern/rear site boundary	8.0m
#05 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to north eastern/rear site boundary	6.0m
#06 <i>Eucalyptus pilularis</i> (Blackbutt) Centrally located in rear setback	5.0m
#11 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to southern site boundary on the Kings Ave nature strip	3.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site corner on	6.0m

Item 5

Kings Ave nature strip

#13 *Angophora costata* (Sydney Redgum) 6.0m
Adjacent to western site corner within
Council's road reserve

#18 *Eucalyptus saligna* (Bluegum) 6.0m
Adjacent to the northern site boundary

90. To preserve the ongoing health and vigour of tree #2 *Angophora costata* (Sydney Redgum) located adjacent to the eastern site boundary, protection fencing will require two stages. The first stage is to construct a 1.8m fence at a 2.8m metre distance from the base of the tree along the edge of the pool line and to a 9.0m radius in both directions, encompassing tree #2 and the Jacaranda #1 on the high side. Once the fence has been constructed, demolition of the swimming pool can proceed ensuring that the tree receives ample protection during the demolition of the pool.

Stage 2 protection requires fencing to a 6.0m radius on the trees northern side encompassing the preservation of the Jacaranda to the east of the tree. The fill left at the base of the tree as a consequence of the pools construction should be removed and the soil level reinstated to close to original grade. This is to be done under the direct supervision of the site Arborist to ensure roots are not exposed during the removal of the waste fill.

91. 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 boardwalk shall be fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site:

Tree/Location	Radius From Trunk
#08 <i>Eucalyptus saligna</i> (Bluegum) Centrally located in rear garden	4.0m

92. 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.
93. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

94. 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

Item 5

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.

95. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
- a) Completion of the new driveway crossings in accordance with levels and specifications issued by Council.
 - b) Reconstruction/ repair as necessary of the concrete footpath over the entire site frontage of Kings Avenue.
 - c) Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - d) Full repair and resealing of any road surface damaged during construction.
 - e) Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles, crane use) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

96. 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 retention/detention facilities (including all ancillary reticulation plumbing) on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88B instruments for protection of on-site retention/detention facilities (DCP47 appendix 14) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate.
97. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
- a) A copy of the approved Construction Certificate stormwater retention/detention design for the site, and
 - b) A copy of the works-as-executed drawing of the as-built on-site retention/detention system, and
 - c) The Engineer's certification of the as-built system.

Item 5

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

98. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
99. Prior to issue of an Occupation Certificate a certification and a works-as-executed (WAE) plan, in relation to the installed rainwater retention/detention devices, are to be submitted to the Principal Certifying Authority (PCA). Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The Certificate is to specifically state compliance with each of the relevant controls set out in appendix 6.2 of Council Water Management Development Control Plan 47. The Works-as-Executed drawing(s) is to be marked up in red on the approved Construction Certificate design, and shall include:

- As constructed levels in comparison to design levels
- As built location of all tanks/retention devices on the property and distances to adjacent boundaries, buildings and easements
- Dimensions of all retention tanks/devices
- Top water levels of storage areas and RL's at overflow point(s).
- Storage volume(s) provided and supporting calculations/documentation.

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

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

100. Prior to issue of an Occupation Certificate the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:
 - a) Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and

Item 5

- 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 issue of an Occupation Certificate. The WAE plan shall show the following as built details, marked in red on the approved construction certificate stormwater drawings:

- a. As built reduced surface and invert levels for all drainage pits and connection points.
 - b. As built reduced level(s) at the approved point of discharge to the public drainage system.
 - c. Gradients of drainage lines, materials and dimensions.
101. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” and the parking layout plans approved for the Construction Certificate.
102. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition full dilapidation report on the visible and structural condition of the existing structure at 7 Kings Avenue.

The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

103. Prior to issue of the Occupation Certificate the applicant shall submit **to Council** a follow up dilapidation report on the visible (including photos) and structural condition of Maclaurin Parade, Corona Avenue and Kings Avenue including full road width, kerb and gutter, and the intersection. The report must be completed by a consulting structural/civil engineer. The structural conditions of all structures originally assessed prior to the commencement of works, must be assessed and the results submitted to Council.
104. 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

Item 5

course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for

105. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
106. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.

BUILDING CONDITIONS

107. 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.
108. 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.
109. 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.
110. 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

Item 5

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.

111. 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.

112. 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. A Compliance Certificate from a suitably qualified person that the Residential Flat Building complies with the relevant deemed to satisfy provisions of the Building Code of Australia.
- f. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.
- g. A Registered Surveyor's Report on completion of footings but before external walls are above floor level verifying compliance with this consent.
- h. A Registered Surveyor's Report confirming approved levels of the ground floor.
- i. A Registered Surveyor's Report confirming approved levels of the first floor.
- j. Registered Surveyor's Report confirming that the 'height' of the building (as defined in the Ku-ring-gai Planning Scheme Ordinance 1971) does not exceed 8.0 metres.
- k. A registered surveyors report confirming the deep soil landscaped area is no less than 50% of the site area (as defined in the Ku-ring-gai Planning Scheme Ordinance.

113. The reflectivity index (expressed as a percentage of the reflected light falling upon any surface) of external glazing for windows or walls of the proposed development is to be no

Item 5

greater than 20%. Written confirmation of the reflectivity index of materials is to be submitted with the Construction Certificate.

114. Utility services such as water, sewer and electricity are to be underground.

G Bolton
Executive Assessment Officer

R Kinninmont
Team Leader
Assessment Team – South

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation

Attachments:

Location Sketch - 549060
Zoning extract - 549052
Site Analysis - 549054
Proposed Landscape & Site Cover - 549049
Section Plans - 549051
Elevation Plans - 549064
Roof Plan - 549057
Landscape Plan - 549062
Shadow Diagram - 549056
A - Shadow analysis No 1 Alexander Parade - 549048
B1 - Shadow study of No 7 Kings Avenue - 549076
B2 - Shadow study of No 7 Kings Avenue - 549075
C - Blue Gum Creek setback zone - 549072
D - Sight lines to northern driveway - 549071
E - Deep soil landscape - 549069
F - Survey plan showing levels of 1 Nola Road & 1 Alexander Parade - 549068
G - View analysis Lot 10, DP 9864 Nola Road, Sheets 1 to 5 - 549066
Original Report to Council Meeting of 6 September 2005 - 528221
Floor plans (Confidential - under separate cover)

LOCATION SKETCH

9-15 KINGS AVENUE, ROSEVILLE NSW

DEVELOPMENT APPLICATION No 1285/04



**33 OBJECTIONS WITHIN NOTIFICATION AREAS
AND 58 OBJECTIONS FROM OUTSIDE NOTIFICATION AREA**



AGREEMENT



OBJECTION



SUBJECT LAND



PETITION



SUBMISSION



CIRCULATED AREA



Scale : 1:2000

26 05 2005



Zoning Extract

1405 Pacific Hwy, Warrawee.



28-10-2005

Scale = 1:2000

- EXISTING COUNTY ROAD
- 2(c) RESIDENTIAL 2(c)
- 2(c2) RESIDENTIAL 2(c2)
- 2(d3) RESIDENTIAL 2(d3)
- SCH SPECIAL USES 5(a) (Schools etc)
- SPECIAL USES 5(b) (Railway)

□ Subject site



SITE ANALYSIS



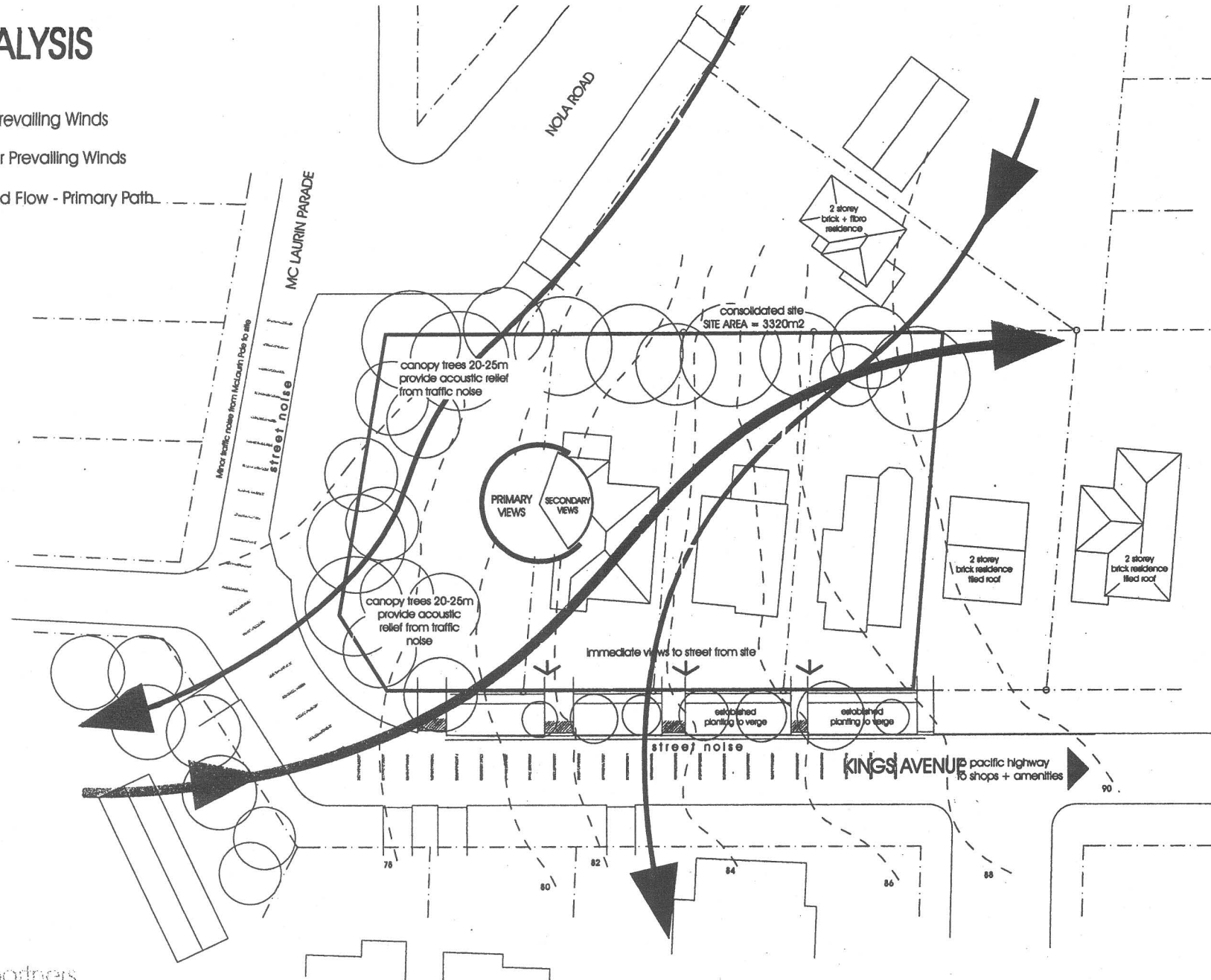
Winter Prevailing Winds



Summer Prevailing Winds



Overland Flow - Primary Path



fitzpatrick + partners

NOTES

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AMENDMENTS

Amr Date	Description
A 04 10 19	Issued for EA

Chk.

KEY PLAN

CLIENT

ETC Development Trust

PROJECT

Kings Ave Roseville

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PROJECT NORTH



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SCALE

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1:500 @ A3
CHECKED

PRINT DATE

14/07/2005
APPROVED

DRAWING

Site Analysis

STATUS

development application

PROJECT NO.

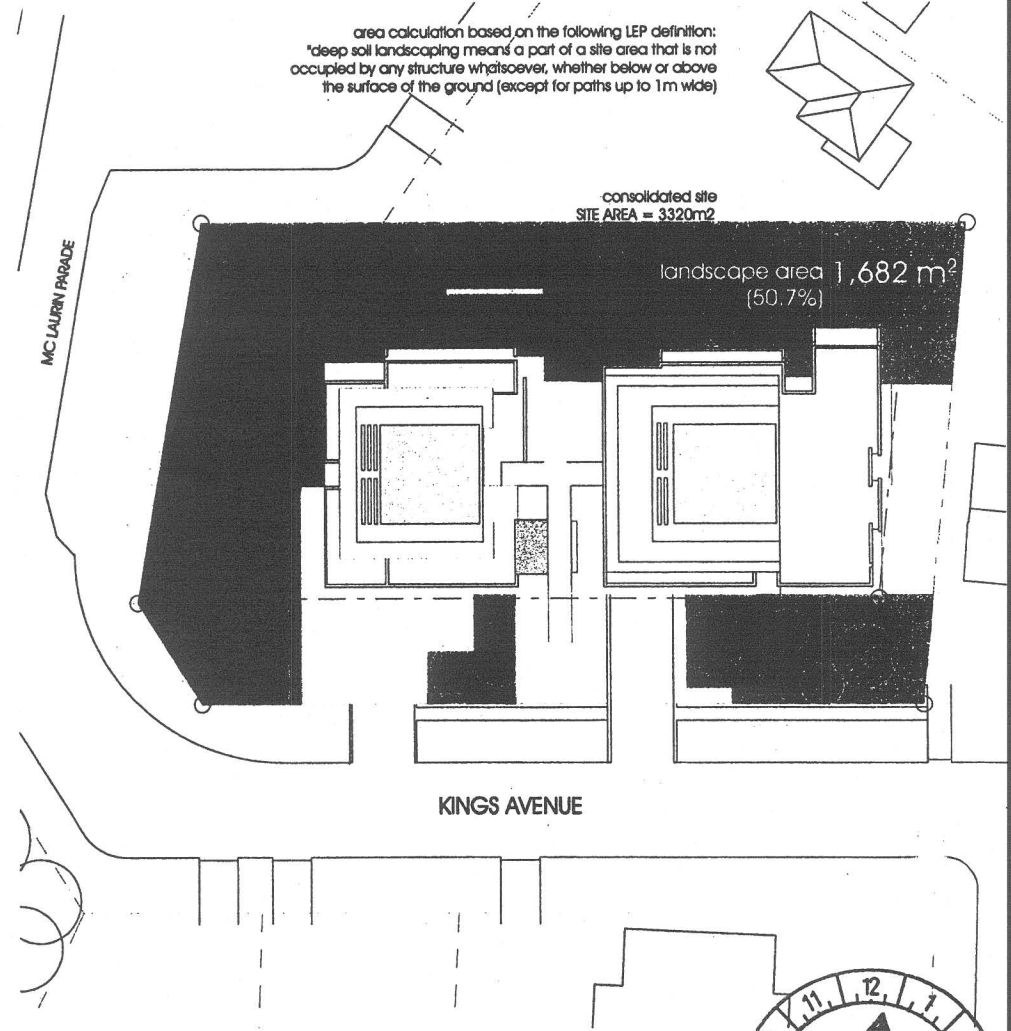
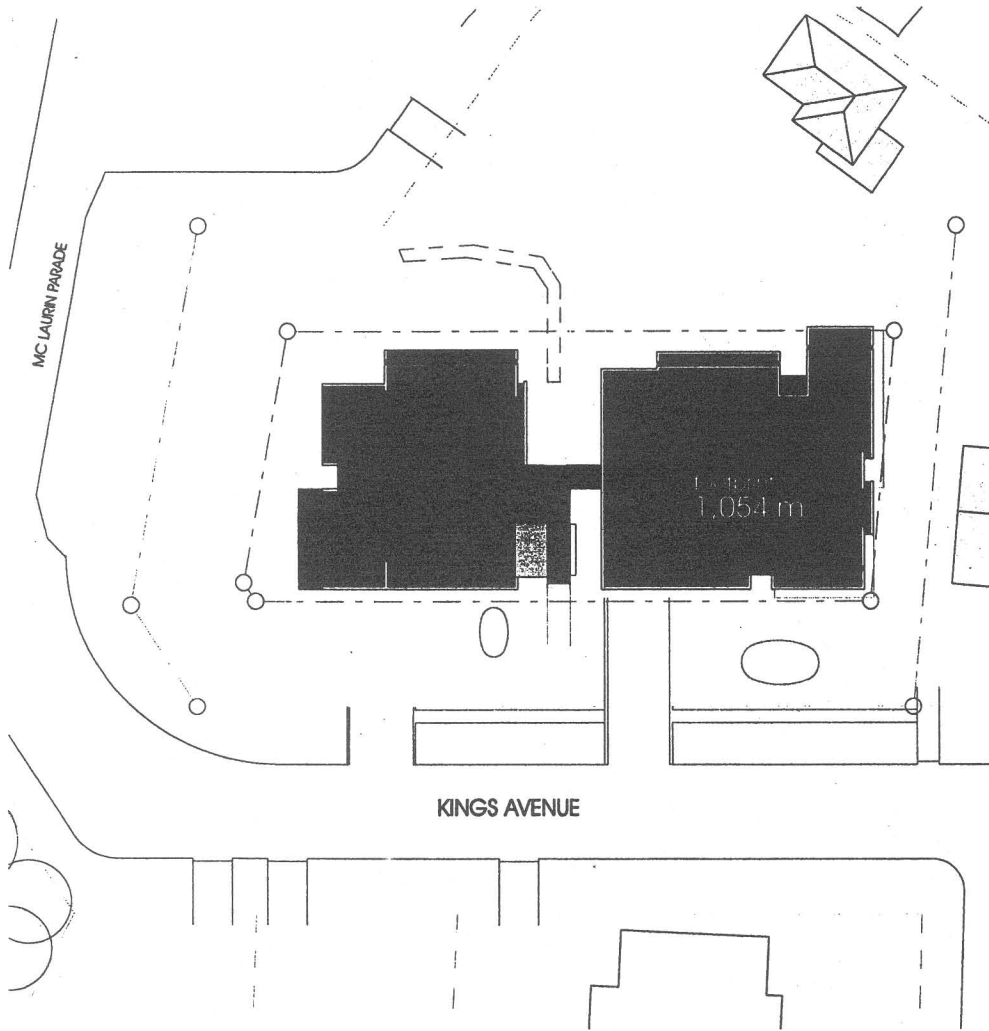
2334

DRAWING NO.

A-103

ISSUE

A



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AMENDMENTS

Amnd	Date	Description	Chk
A	04.10.19		
B	04.10.25	Issued for DA	
C	05.06.09	Issued for DA	
D	05.07.08	DA resubmission - front setback increased	

KEY PLAN

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STATUS

development application

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CHECKED

PRINT DATE

14/07/2005
APPROVED

DRAWING

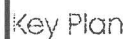
Proposed
Landscape + Site Cover

PROJECT NO.
2334

DRAWING NO.
A-113

ISSUE
D





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AMENDMENTS	
Amnd Date	Description

Click

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STATUS
development application

SCALE
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PRINT DATE
14/07/2005
APPROVED

DRAWING
DA resubmissions
section B

PROJECT NO.
2334

DRAWING NO.
SK06

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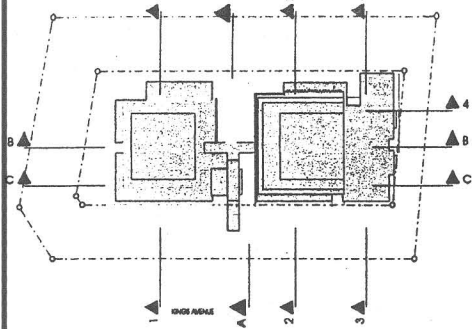
18 JUL 2000

CUE

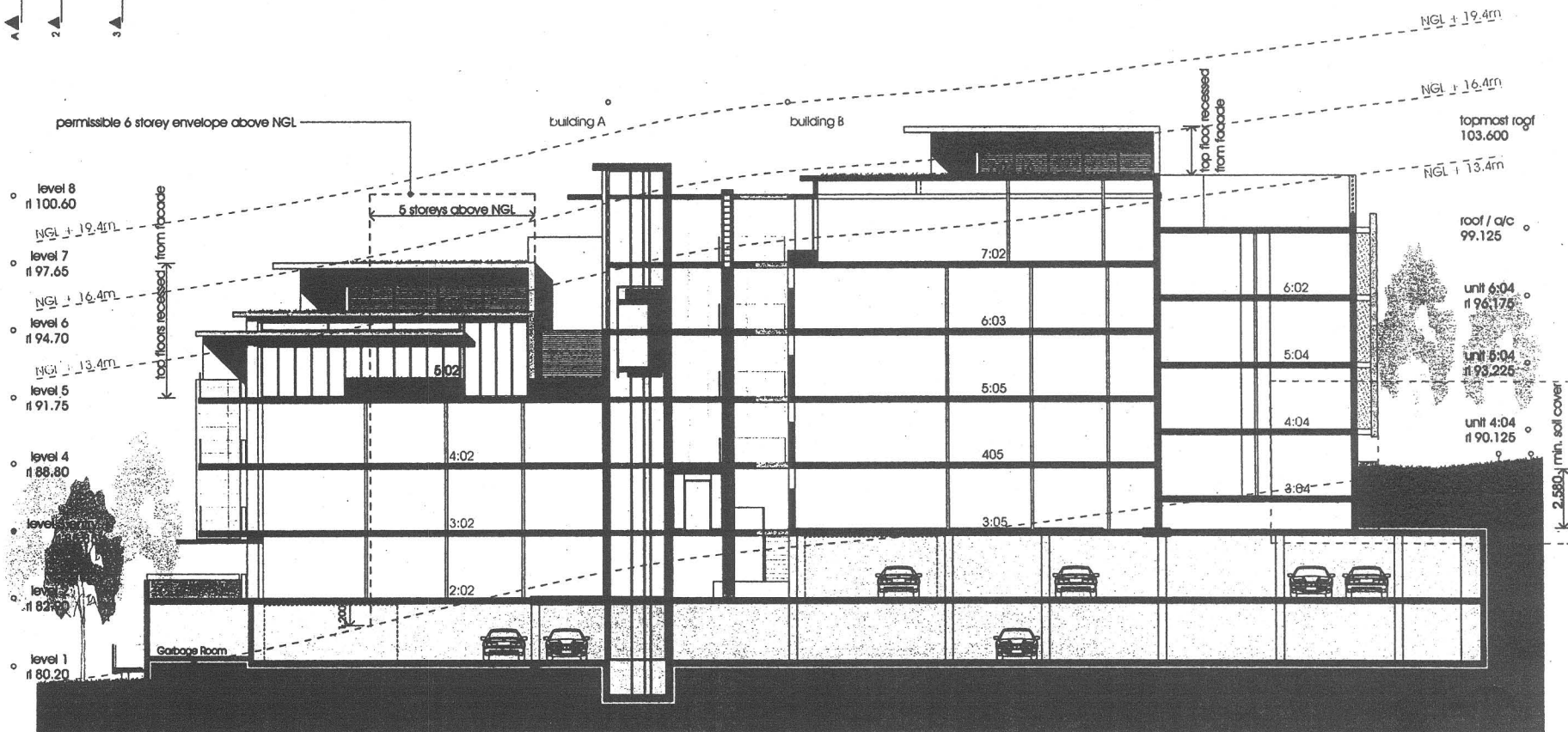
SERVICE
CENTRE

2

A



Key Plan



DIAGRAMMATIC SECTION C-C

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AMENDMENTS

Amend Date Description

Chk

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PRINT DATE
14/07/2005
APPROVED

STATUS
development application

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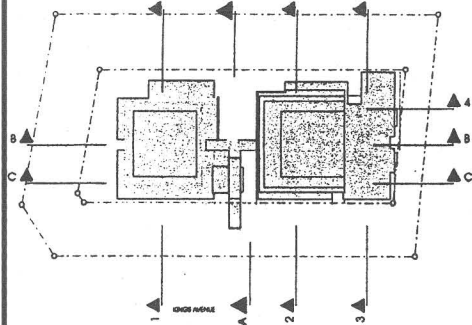
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section C

PROJECT NO.
2334

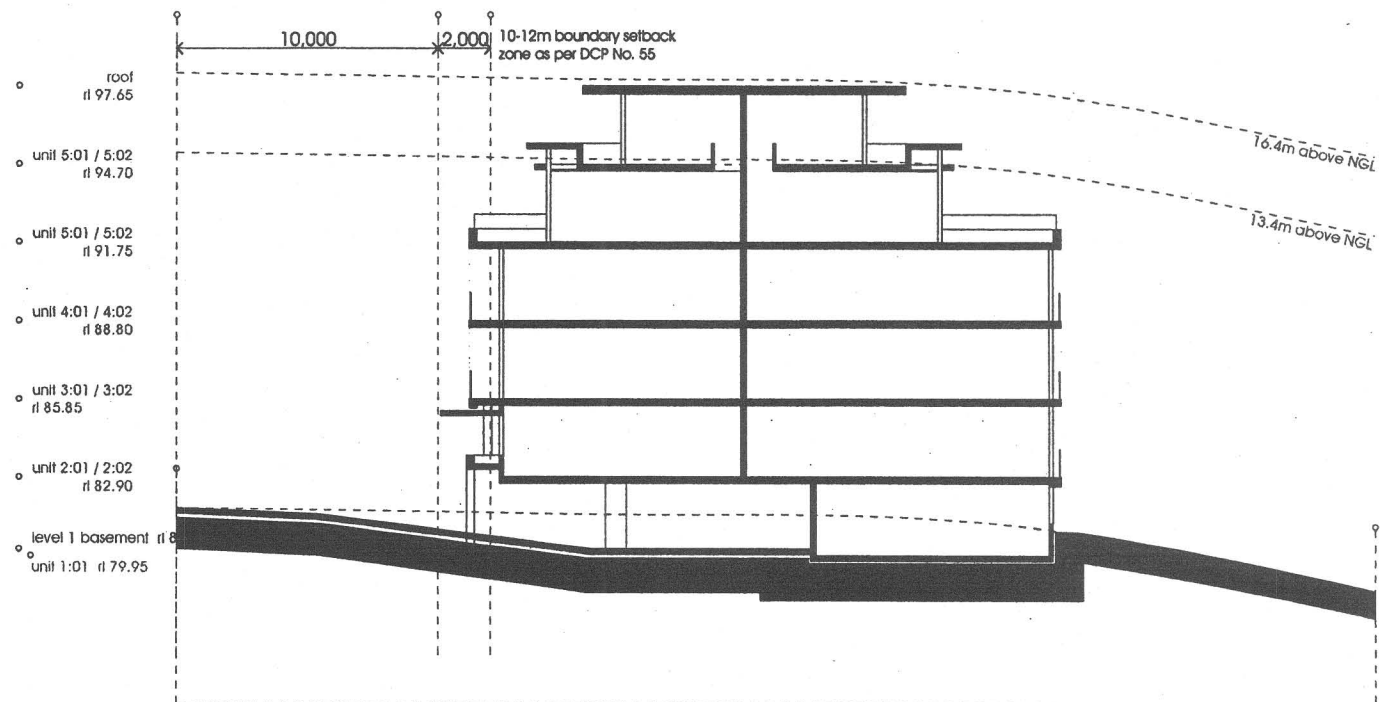
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SK07

ISSUE
A





Key Plan



DIAGRAMMATIC SECTION 1



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AMENDMENTS

Amd	Date	Description	Chk
B	05.07.05DA (re-submission)	fire exit setback increased	

KEY PLAN

CLIENT

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PROJECT

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PRINT DATE
14/07/2005
APPROVED

STATUS
development application

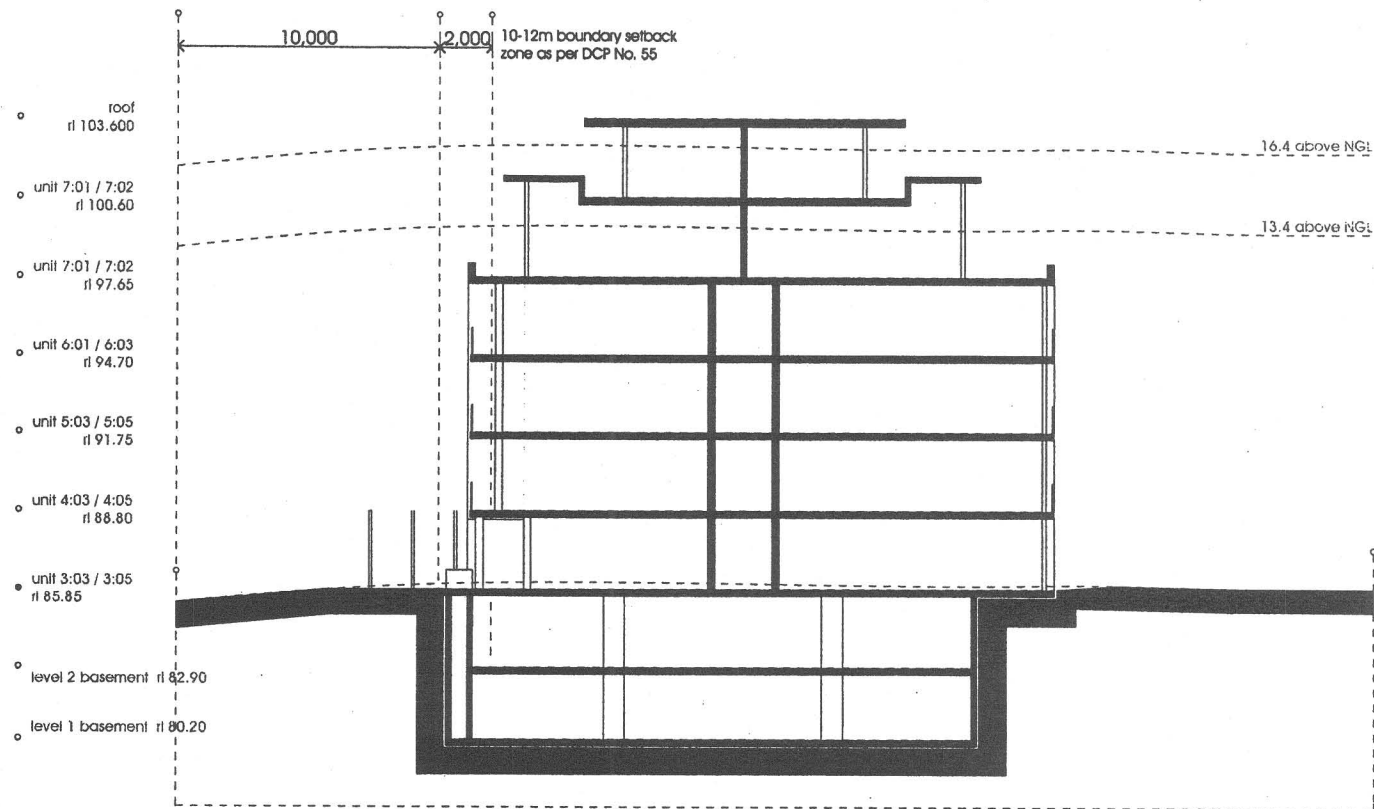
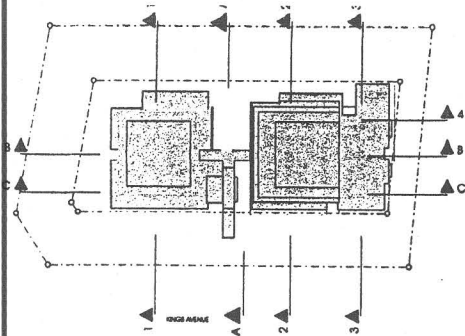
DRAWING

DA resubmissions
diagrammatic section 1

PROJECT NO.
2334

DRAWING NO.
SK08

ISSUE
B



DIAGRAMMATIC SECTION 2



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AMENDMENTS

Amd	Date	Description	Ctk
B	05.07.08	DA re-submission - front setback increased	

KEY PLAN

CLIENT

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PROJECT

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PROJECT NORTH



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CHECKED

PRINT DATE
14/07/2005
APPROVED

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STATUS

development application

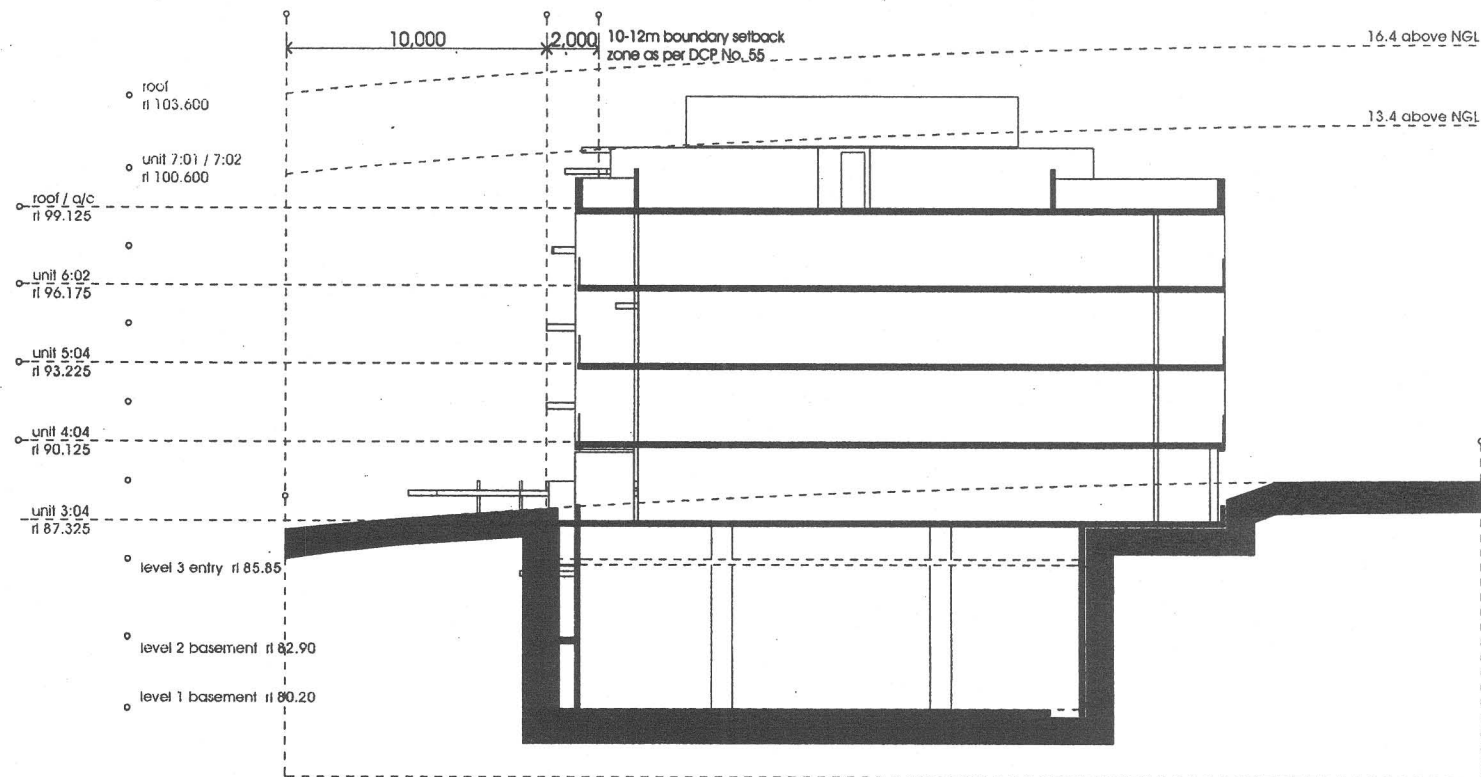
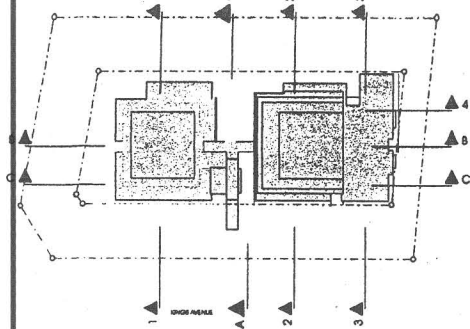
DRAWING

DA resubmissions
diagrammatic section 2

PROJECT NO.
2334

DRAWING NO.
SK09

ISSUE
B



DIAGRAMMATIC SECTION 3



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AMENDMENTS

Amel	Date	Description	Chk
B	05.07.04	DA resubmission - front setback increased	

KEY PLAN

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PROJECT

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PRINT DATE
14/07/2005
APPROVED

STATUS

development application

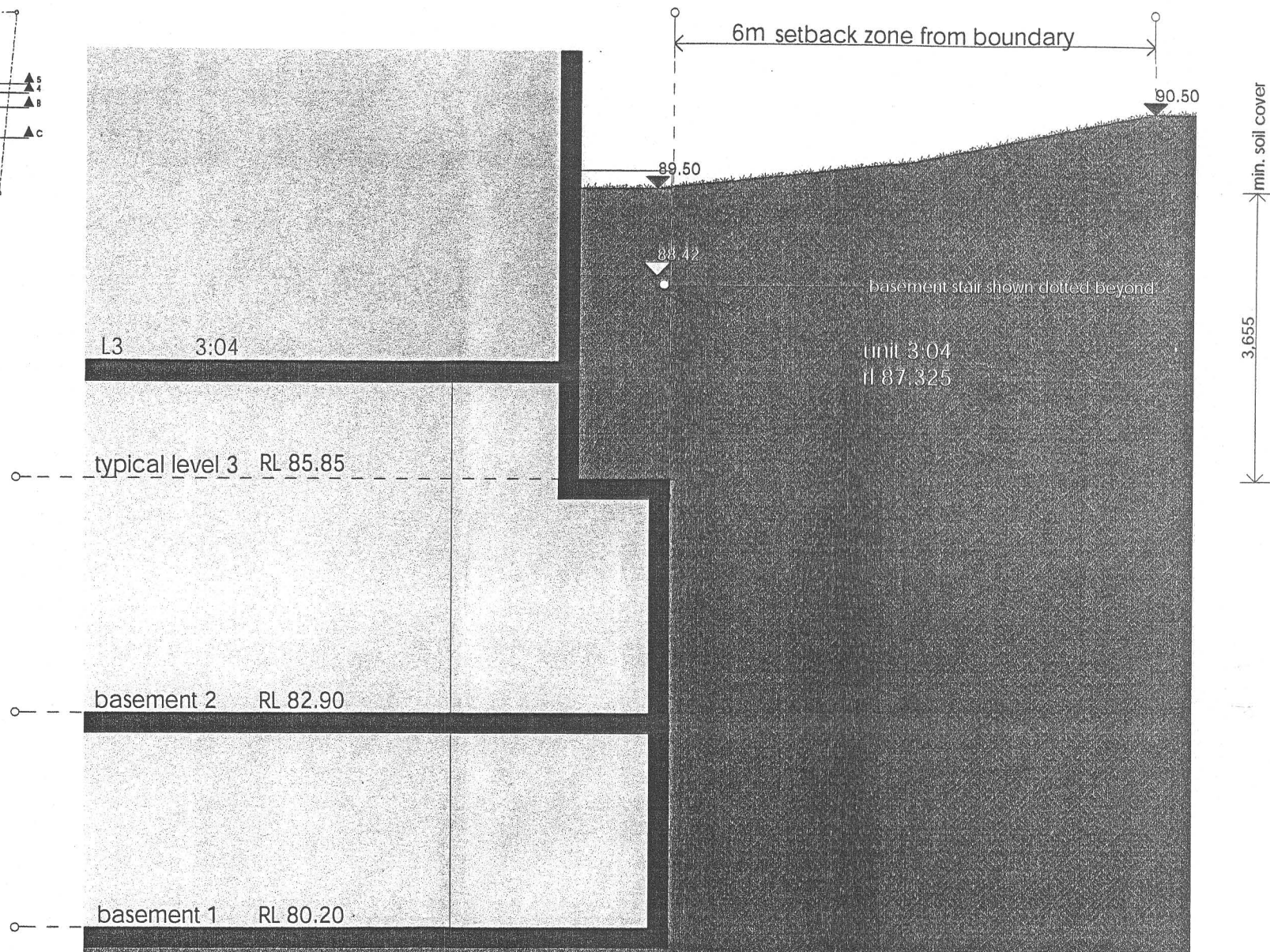
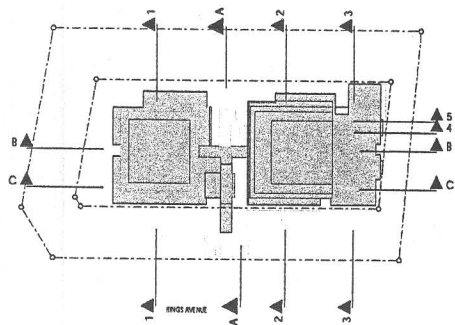
DRAWING

DA resubmissions
diagrammatic section 3

PROJECT NO.
2334

DRAWING NO.
SK10

ISSUE
B



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AMENDMENTS
Amd Date Description Ck
A 06.08.17 DA Resubmission changes to basement

KEY PLAN

CLIENT
ETC Development Trust

PROJECT
Kings Ave Roseville

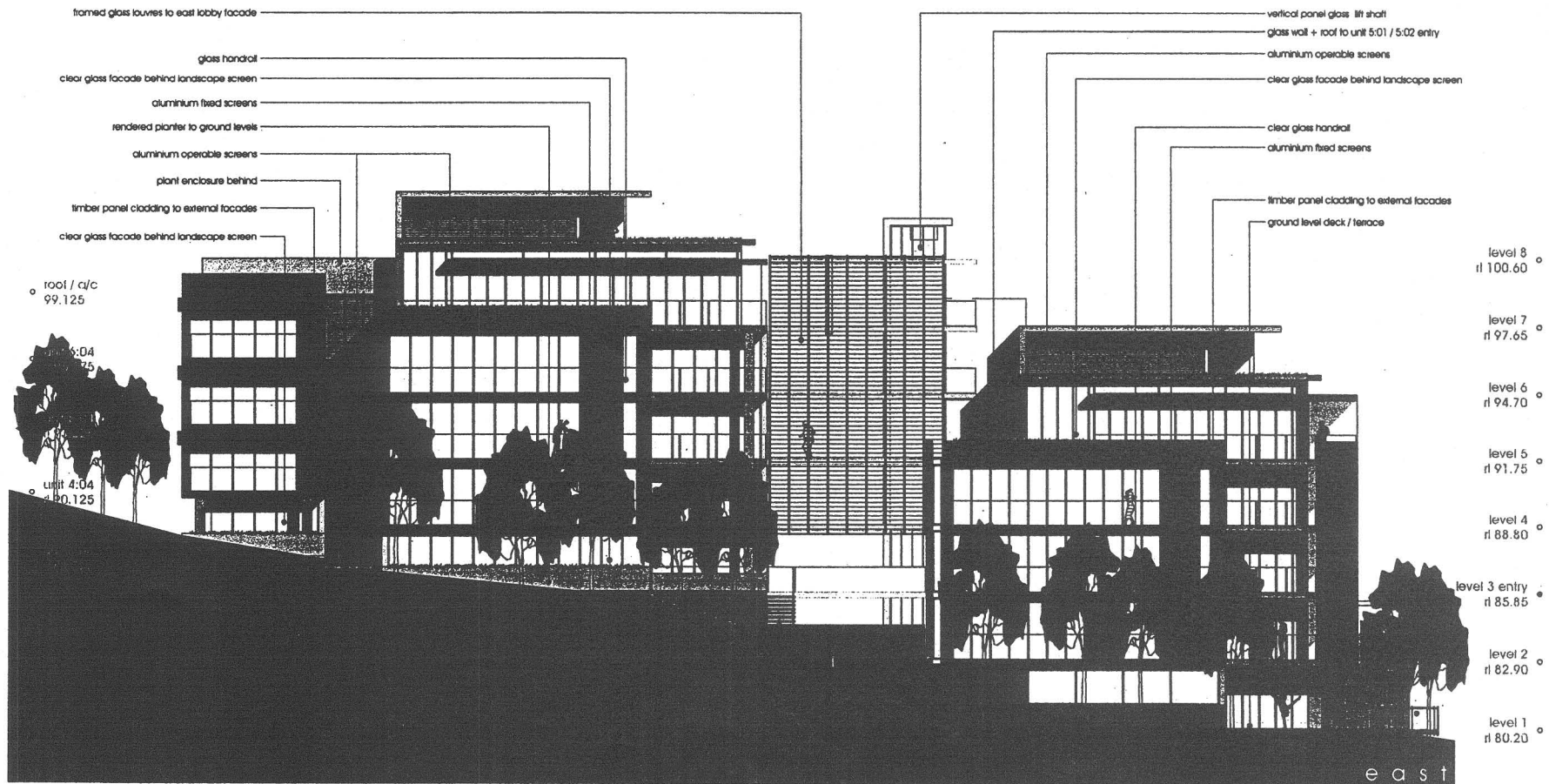
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PROJECT NORTH
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CHECKED
PRINT DATE
17.08.2006
APPROVED
50mm on original
STATUS
development application

DRAWING
DA Resubmission
detail section 5

PROJECT NO.
2334
DRAWING NO.
SK27

ISSUE
A



NOTES
 The drawing is submitted for the building's use and general appearance.
 It is not intended to be used for construction purposes.
 It is not intended to be used for construction purposes.
 It is not intended to be used for construction purposes.
 It is not intended to be used for construction purposes.

REVISIONS
 No. / Rev. Description

APPROVALS
 No. / Rev. Description

DATE
 No. / Rev. Description

BY
 No. / Rev. Description

FOR
 No. / Rev. Description

DATE
 No. / Rev. Description

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FOR
 No. / Rev. Description

ETC Development Trust

Kings Ave Roseville

PROJECT NO.

1234567890

DATE

12/07/2005

DESCRIPTION

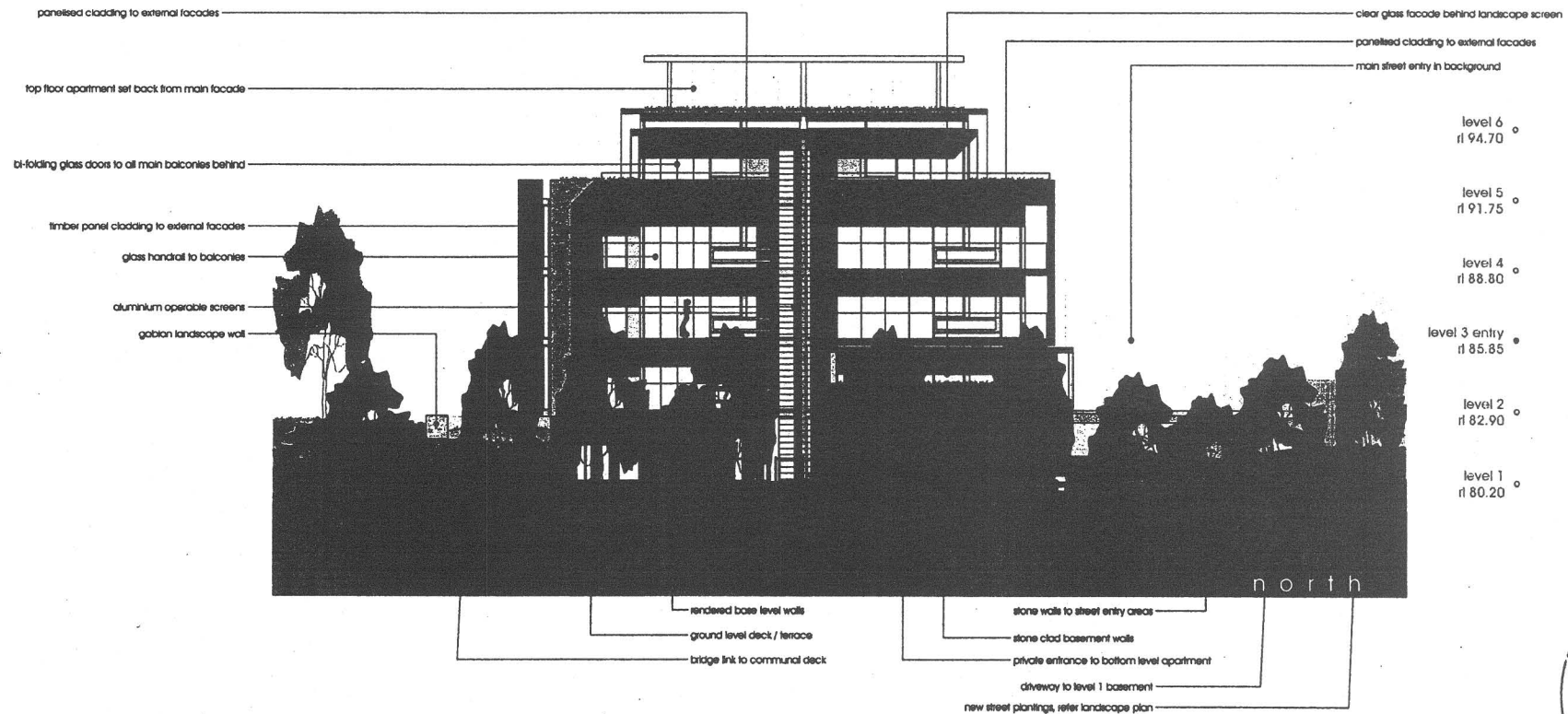
Elevation East

development application

2334

A-303

E



NOTES
This drawing is to be used for the purpose of a not a final design. It is not to be used for construction or for any other purpose without the written consent of the architect.
Drawing shall show that only the drawings are to be used for construction or for any other purpose without the written consent of the architect.
Do not scale drawing. Check dimensions before commencing work.
Dimensions are to be rounded to nearest 10mm.

REVISIONS

NO.	DATE	DESCRIPTION
1	10/10/04	Issue for I.D.
2	10/10/04	Issue for I.D.
3	10/10/04	Issue for I.D.

APPROVED

By: [Signature] Date: [Date]

USING

NOTES

CLIENT: ETC Development Trust

PROJECT: Kings Ave Roseville

PROJECT NO: 2334

DATE: 10/10/04

DESIGNER: [Signature]

development application

REVISION

Elevation North

PROJECT NO: 2334

DESIGNER: A-304

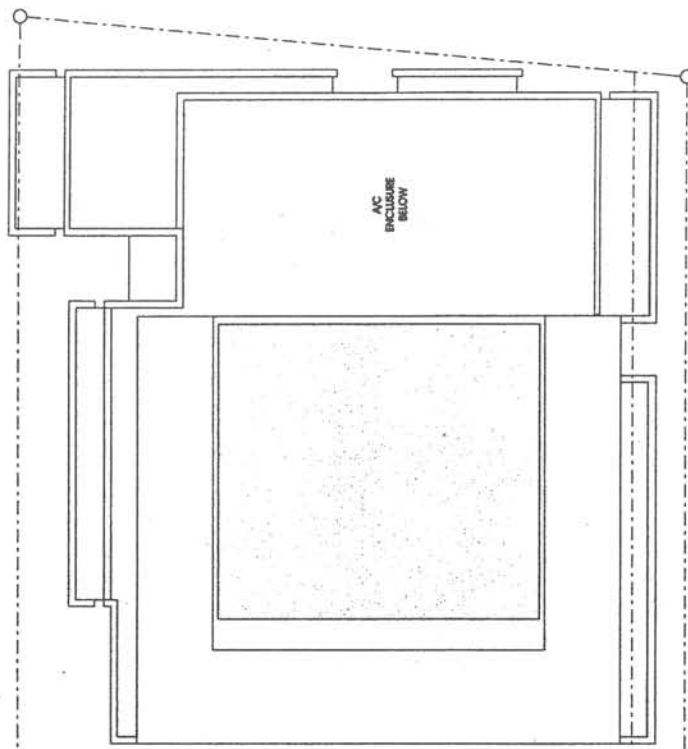
DATE

10/10/04

DESIGNER

C

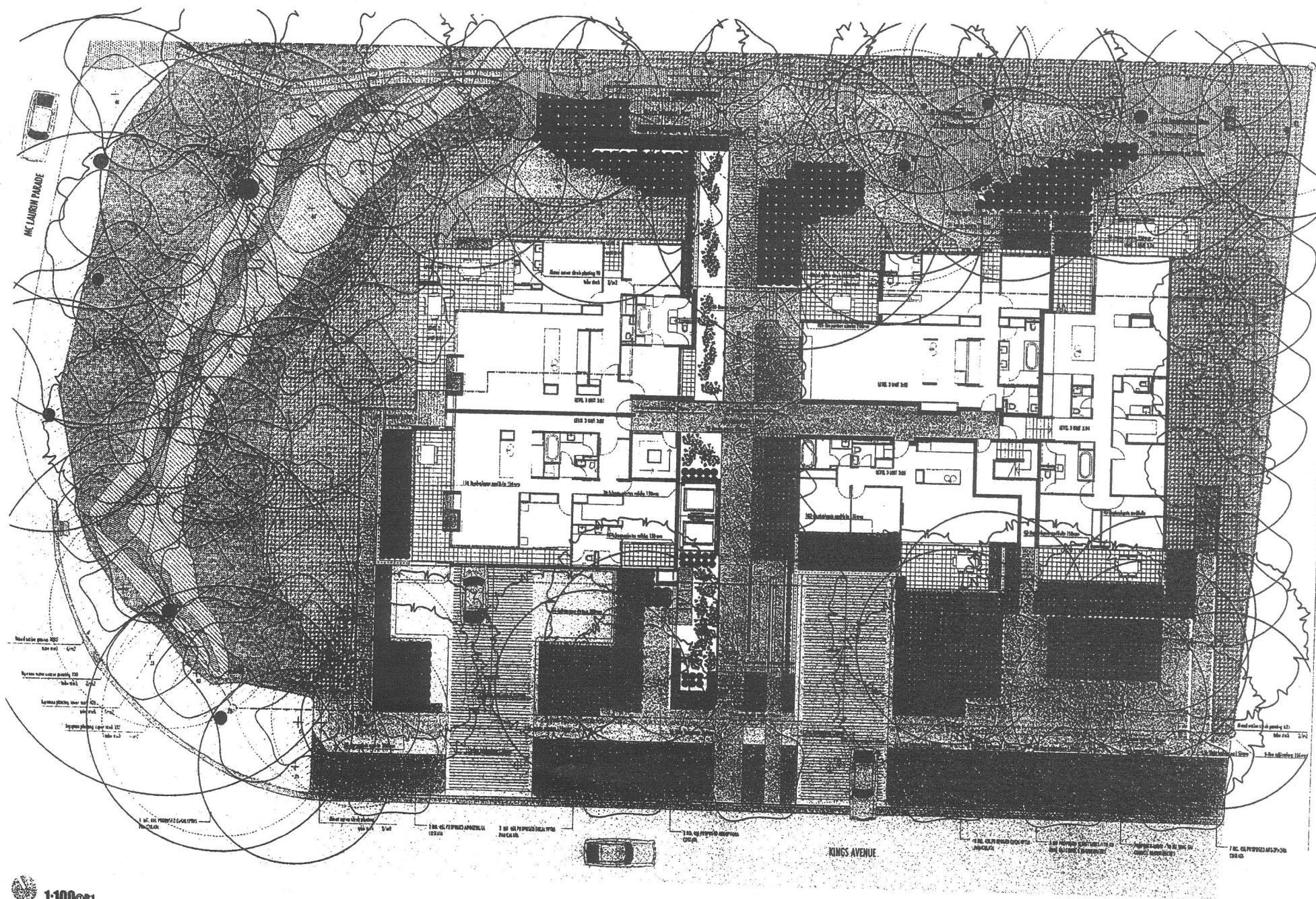
ROOF PLAN



10-12m BOUNDARY SETBACK
AS PER DCP No. 55

10,000

100



LEGEND/SPECIFICATIONS

EXISTING TREES

- EXISTING TREE IN 10' PLANTING
- EXISTING TREE IN 10' PLANTING
- EXISTING TREE IN 10' PLANTING

PROPOSED TREES

- 1" DB. 25' - 40' PROPOSED TREES
- 1" DB. 25' - 40' PROPOSED TREES
- 1" DB. 25' - 40' PROPOSED TREES
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PROPOSED PLANTING

- PROPOSED PLANTING: 1" DB. 25' - 40' PROPOSED TREES
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PROPOSED PLANTING

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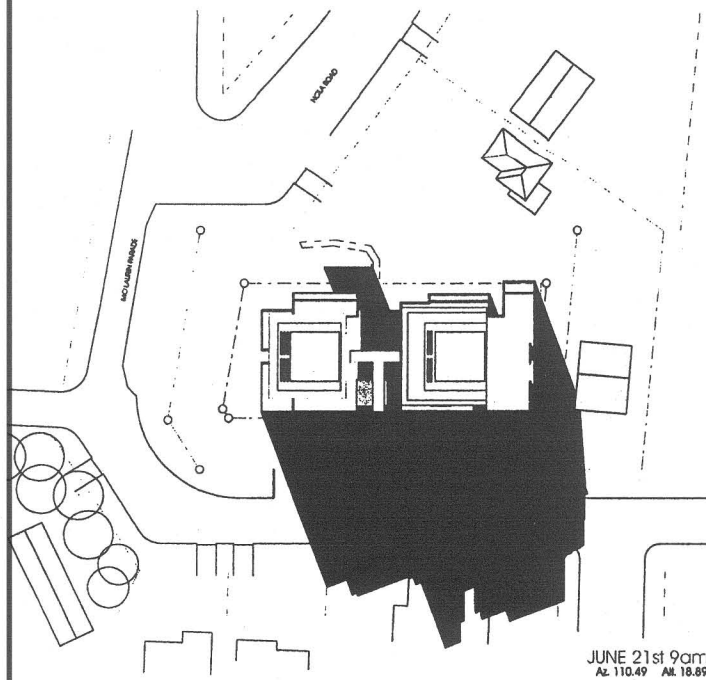
KINGS AVENUE

KINGS AVENUE, ROSEVILLE TC Development Trust

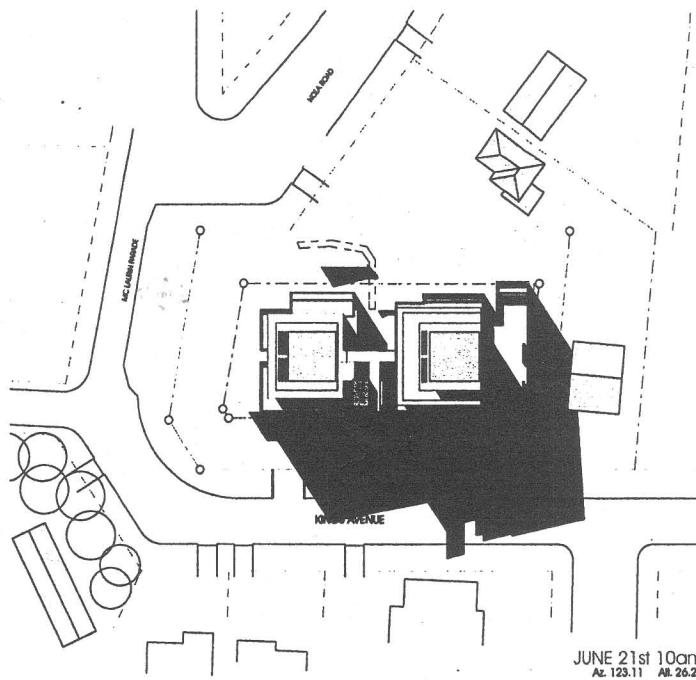
PLANTING PLAN/01

mcgregor + partner
landscape architects - roseville, ca
1000 10th Street, Suite 200
Roseville, CA 95743
www.mcgregorpartner.com

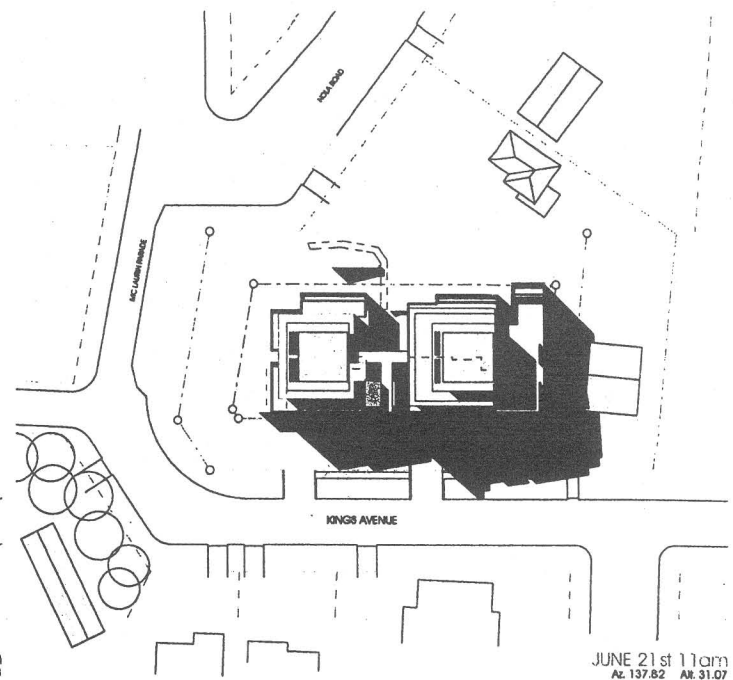
APRIL 2005, REVISION



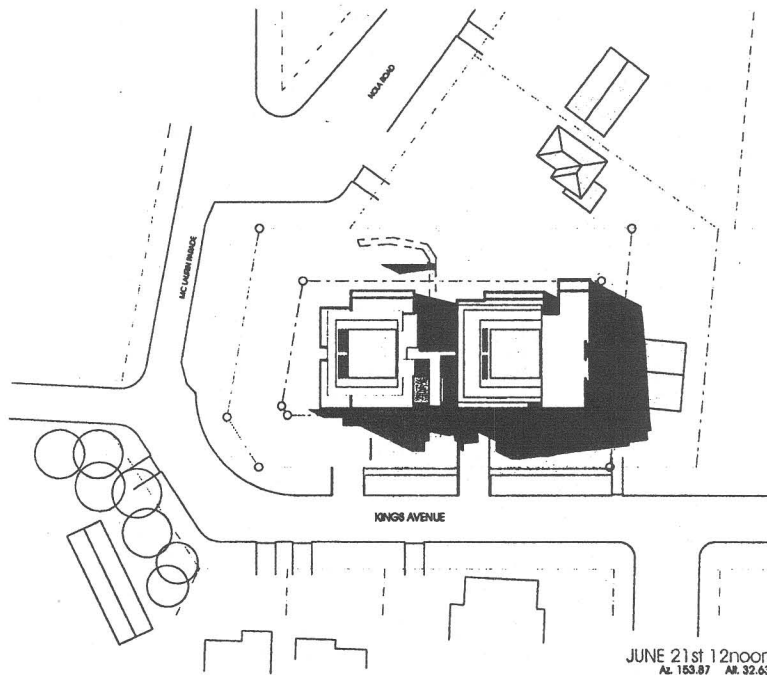
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Az. 110.49 Alt. 18.89



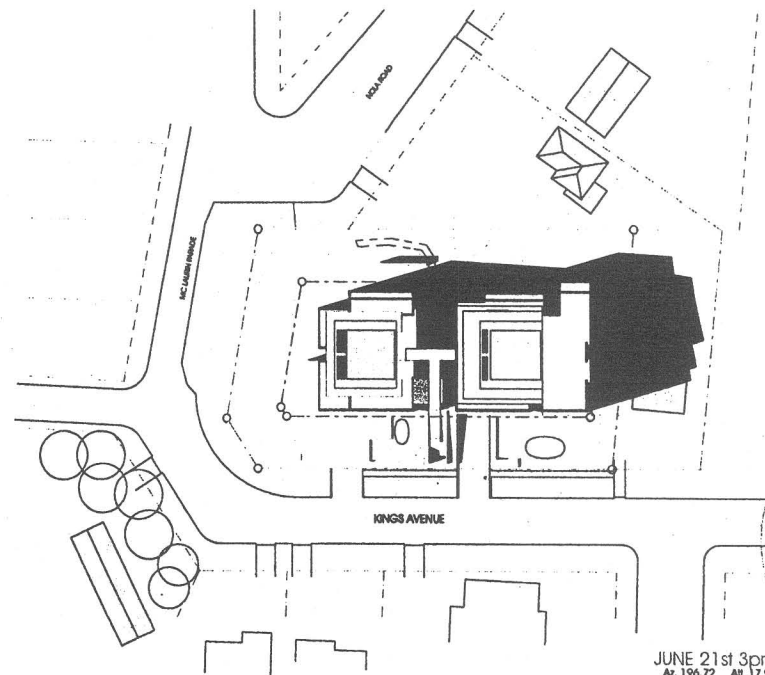
JUNE 21st 10am
Az. 123.11 Alt. 26.28



JUNE 21st 11am
Az. 137.82 Alt. 31.07



JUNE 21st 12noon
Az. 153.87 Alt. 32.63



JUNE 21st 3pm
Az. 196.72 Alt. 17.98



SHADOWS

NOTES

This drawing is based upon the location of the building as shown on the site plan. It is not intended to represent the actual position of the building on the ground. The position of the building on the ground may vary from the position shown on the site plan. The position of the building on the ground may vary from the position shown on the site plan. The position of the building on the ground may vary from the position shown on the site plan.

ASSUMPTIONS

1. The sun is assumed to be at the position shown on the sun diagram. 2. The sun is assumed to be at the position shown on the sun diagram. 3. The sun is assumed to be at the position shown on the sun diagram.

ABBREVIATIONS

ON And Size Description

UNITS

ON

CLIENT

ETC Development Trust

PROJECT

Kings Ave Roseville

DESIGNED BY

ETC Development Trust

PROJECT NO.

2334

SCALE

1:1000

DATE

18/07/05

BY

development application

PROJECT NO.

2334

REVISION NO.

A-115

DATE

C

Sun Diagrams - June

MC LAURIN PARADE

KINGS AVENUE

DECK

INITIAL OUTLINE OF RESIDENCE TO SUBJECT SITE (IN RED)

NEW OUTLINE AS PER SURVEY REF. 11905/2 (INC. AS DA RESUBMISSION SK 36)

3D

NOTES	ADJUSTMENTS
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AMENDMENTS		
OK	Decl. Code	Description

2 | 1020

! 22 * 7, 22 *

Gen

PROJECT

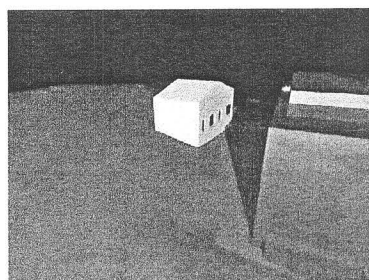
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1.600 (p. 4)		
1.200 (p. 4)		

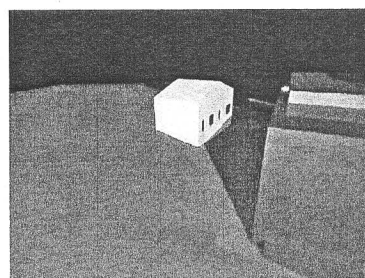
DA Resubmission
Shadow Analysis
No.1 Alexander Parade

PROJECT NO. 2334 DRAWING NO. SK 37

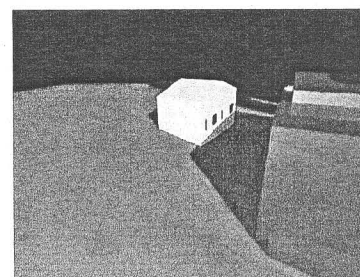
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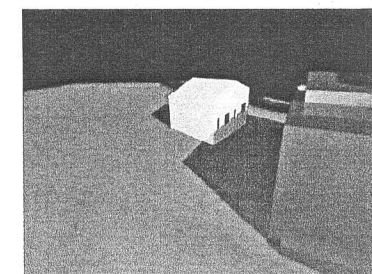
9am



10am

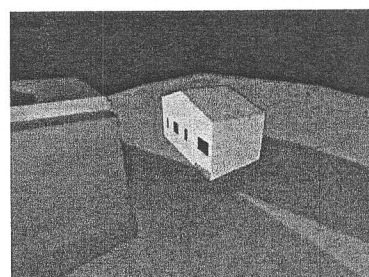


11am

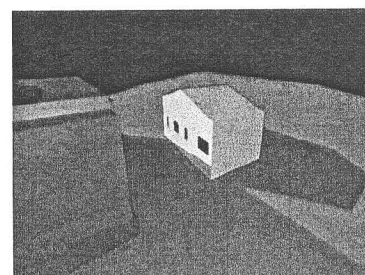


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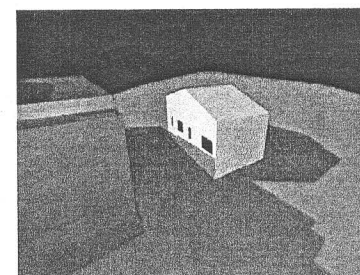
June 21 Front View (From Southern edge of Site)



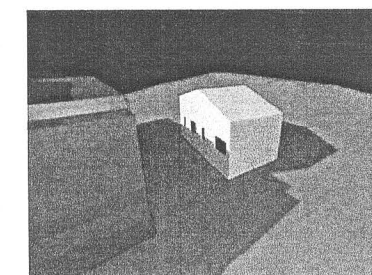
9am



10am



11am



12noon

Note:

All information for No. 7 Kings Ave, Roseville is established from survey drawings.
Survey drawing by Byrne & Associates, Plan No: A0 - 9564 D, Date: 28.08.2003

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AMENDMENTS		KEY PLAN
Amd	Date	Description

CLIENT
ETC Development Trust

PROJECT
Kings Ave Roseville

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PROJECT NORTH	SCALE	PRINT DATE
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CHECKED	APPROVED	

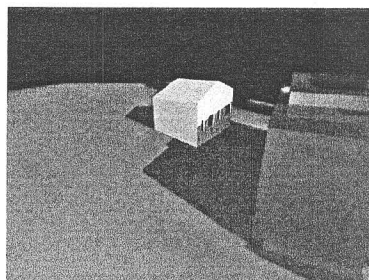
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STATUS
development application

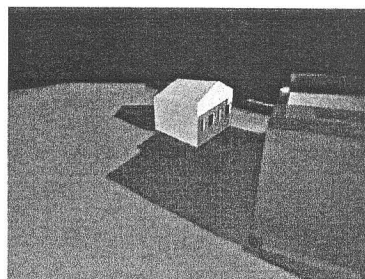
DRAWING		
DA Resubmission Shadow Study Lot 7 Sh-1		
PROJECT NO.	DRAWING NO.	ISSUE
2334	SK 28	A

B2

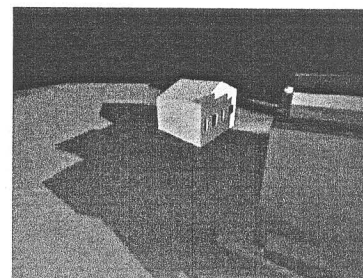
June 21 Back View (From Eastern edge of Site)



1pm

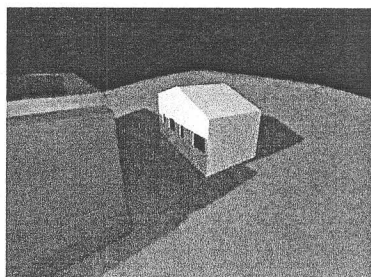


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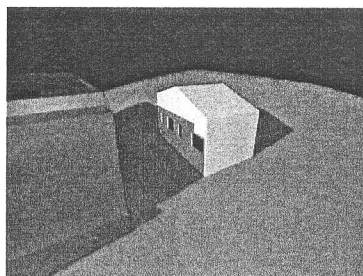


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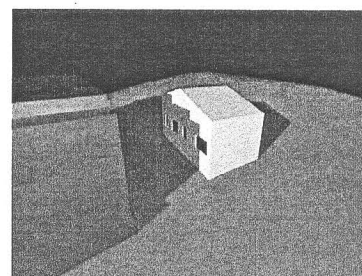
June 21 Front View (From Southern edge of Site)



1pm



2pm



3pm

Note:

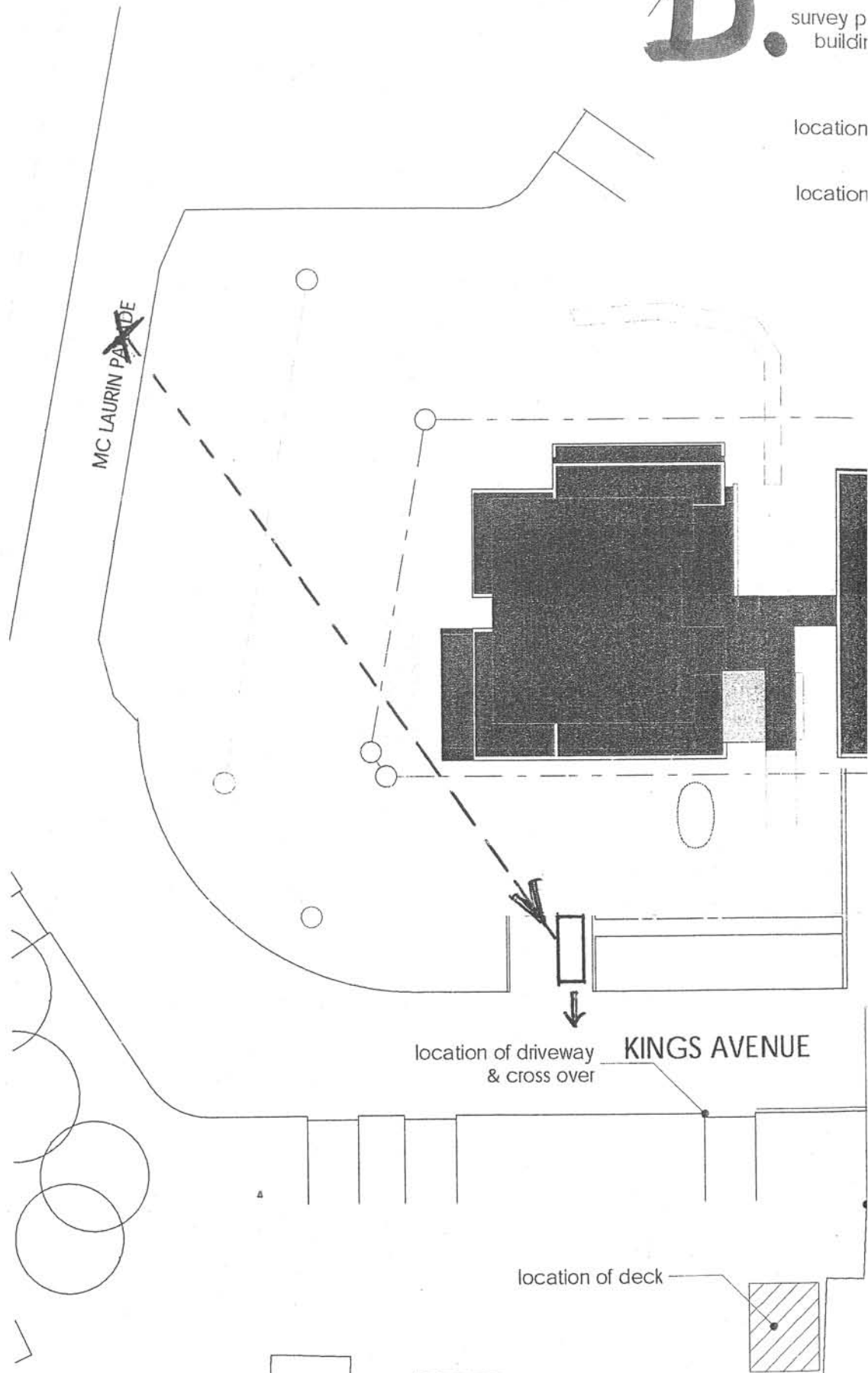
All information for No. 7 Kings Ave, Roseville is established from survey drawings.
Survey drawing by Byrne & Associates, Plan No: A0 - 9564 D, Date: 28.08.2003

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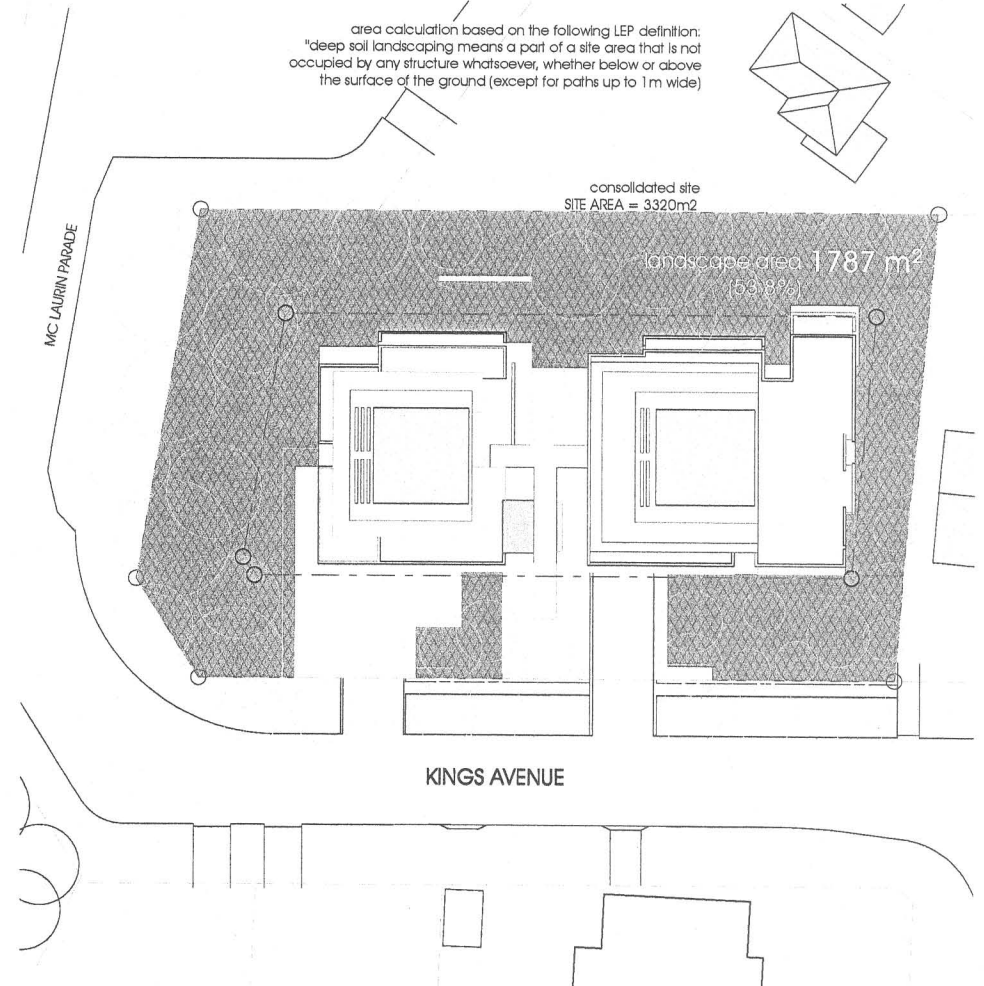
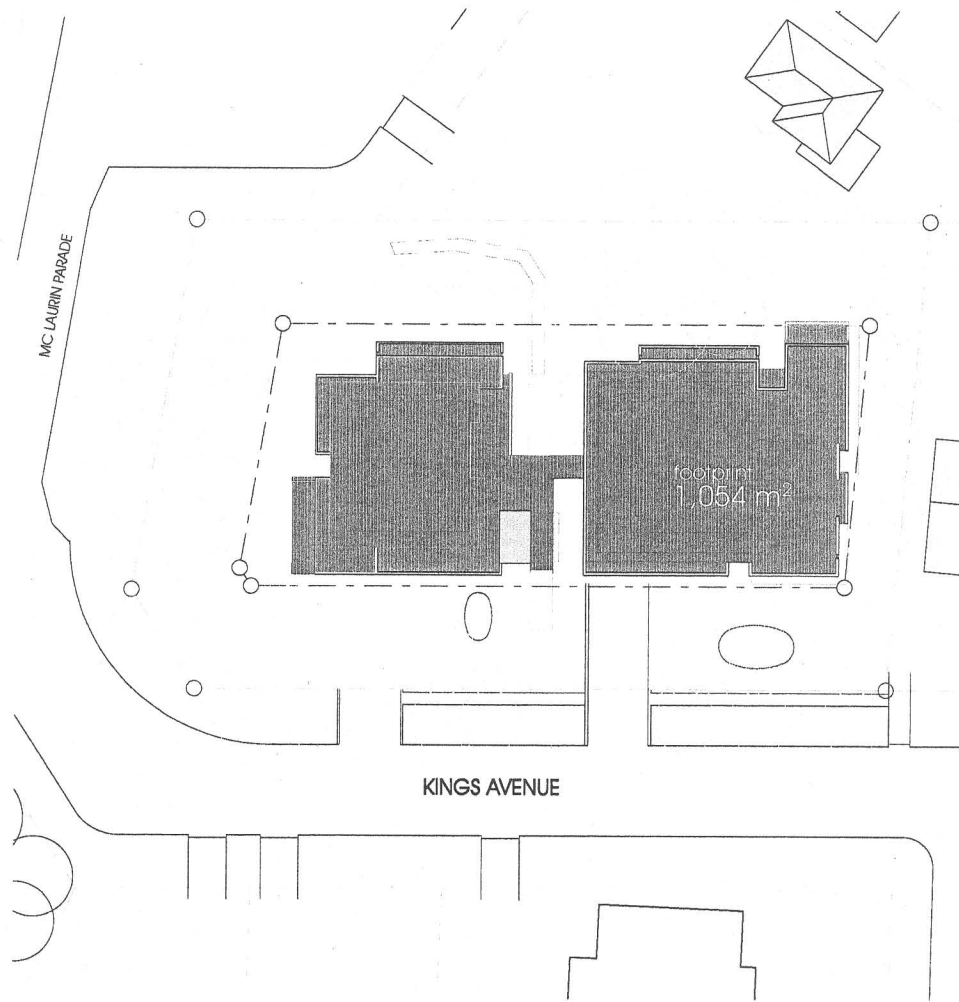
location

location




SURVEY INFORMATION NEEDED FOR LOT 10 NOLA, AT
CRNR OF ALEXANDER PRDE & KING'S A

E.



area calculation based on the following LEP definition:
"deep soil landscaping means a part of a site area that is not occupied by any structure whatsoever, whether below or above the surface of the ground (except for paths up to 1m wide)"

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1	10/10/14	Issue for RFP																						
2	10/10/14	Issue for RFP																						
3	10/10/14	Issue for RFP																						
4	10/10/14	Issue for RFP																						
5	10/10/14	Issue for RFP																						

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F.



NOTES

1. SPOT LEVELS SHOWN THUS: 21.02.
2. NO BOUNDARY SURVEY HAS BEEN MADE. BOUNDARY DIMENSIONS SHOWN HAVE BEEN DETERMINED FROM CERTIFICATES OF TITLE TO SUBJECT LAND. BOUNDARY INFORMATION HAS BEEN COMPILED FROM INFORMATION SHOWN ON PLANS ON PUBLIC RECORD AT OFFICE OF LAND AND PROPERTY INFORMATION.
3. THE LOCATION OF HOUSES AT No. 9-15 KINGS AVENUE HAS BEEN TAKEN FROM RYRNF & ASSOCIATES P/I PLAN No. AG-B564D DATED 28 AUGUST 2003.



DIAL BEFORE YOU DIG
SHOULD BE CONTACTED
PRIOR TO ANY EXCAVATION ON SITE

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DATE	REVISIONS	BY

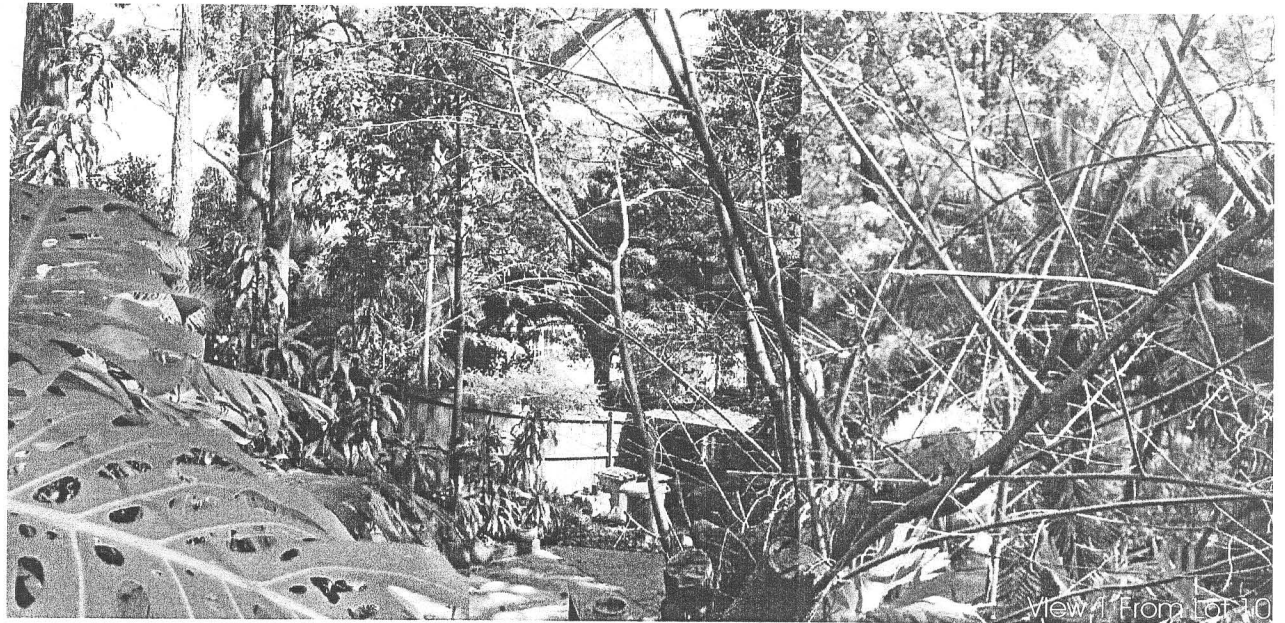
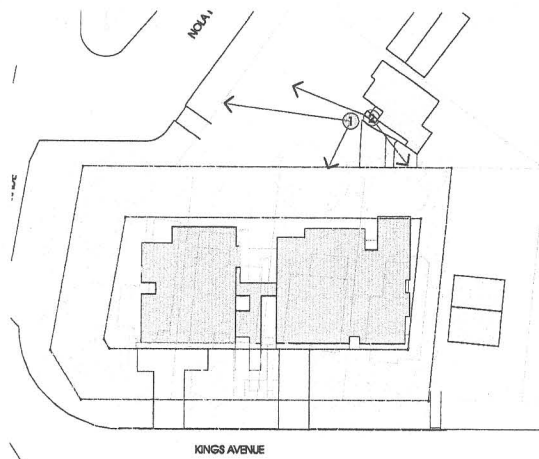


YSCO GEOMATICS
LAND RESOURCE CONSULTANTS
SUITE 4 11 HAMPER ROAD, ARTHURTON 2064
PH: (02) 94108222 FAX: (02) 94104802
Email: yscogeomatics@optusnet.com.au
Website: www.yscogeomatics.com.au
LOCAL RESOURCES & CONSULTING PTY LTD ACN 003 876 860

GEOMATIC ENGINEERING
LAND & ENGINEERING SURVEYING
PROJECT MANAGEMENT
SOL AND WATER MANAGEMENT
ENVIRONMENTAL PLANNING & DESIGN

PLAN SHOWING KERB LEVELS & HOUSE LOCATIONS AT
Nos 9-15 KINGS AVENUE, No.1 NOLA ROAD & No.1
ALEXANDER PARADE ROSEVILLE L.G.A. KU-RING-GAI.

DRAWN	CHECKED	SCALE	DATUM	REFERENCE
4 OCTOBER 2005		1:250 @ A1	AHD	11905/2



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AMENDMENTS

Amd	Date	Description
1	05.10.11	DA Resubmission - View Analysis Lot 10

Chk

KEY PLAN

CLIENT

ETC Development Trust

PROJECT

Kings Ave Roseville

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SCALE

CHECKED

PRINT DATE

14.10.2005

APPROVED

DRAWING

DA Resubmission
View Analysis Lot 10 Sh-1

STATUS

development application

PROJECT NO.

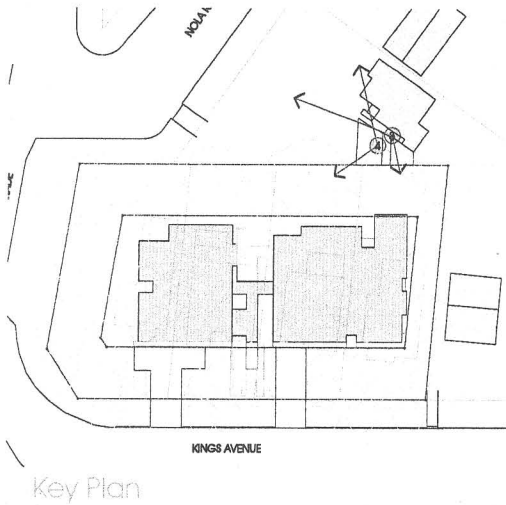
2334

DRAWING NO.

SK 31

ISSUE

A



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AMENDMENTS

Am Date Description

Chk

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PROJECT

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PROJECT NORTH



SCALE

CHECKED

PRINT DATE

10/10/2006
APPROVED

DRAWING

DA Resubmission
View Analysis Lot 10 Sh-2

STATUS

development application

PROJECT NO.

2334

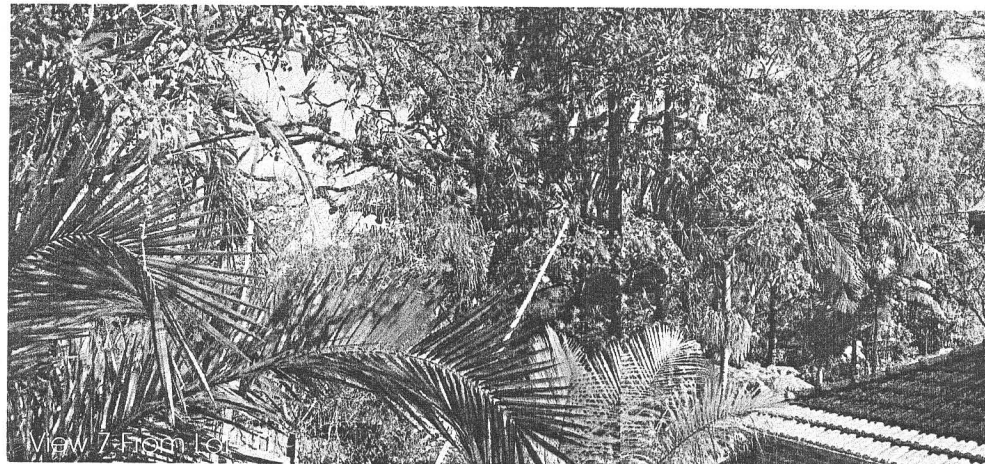
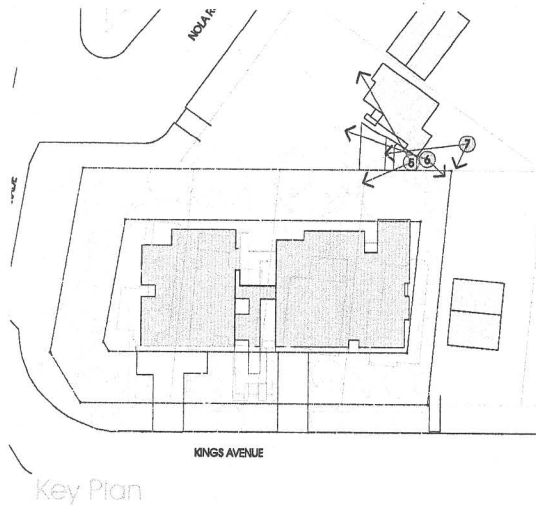
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SK 32

ISSUE

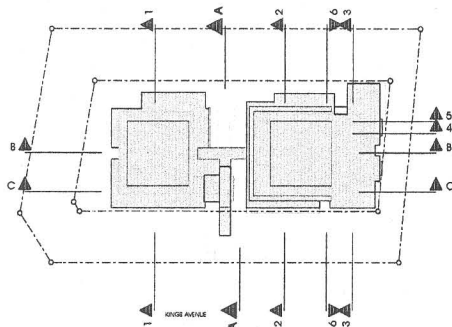
A

G.

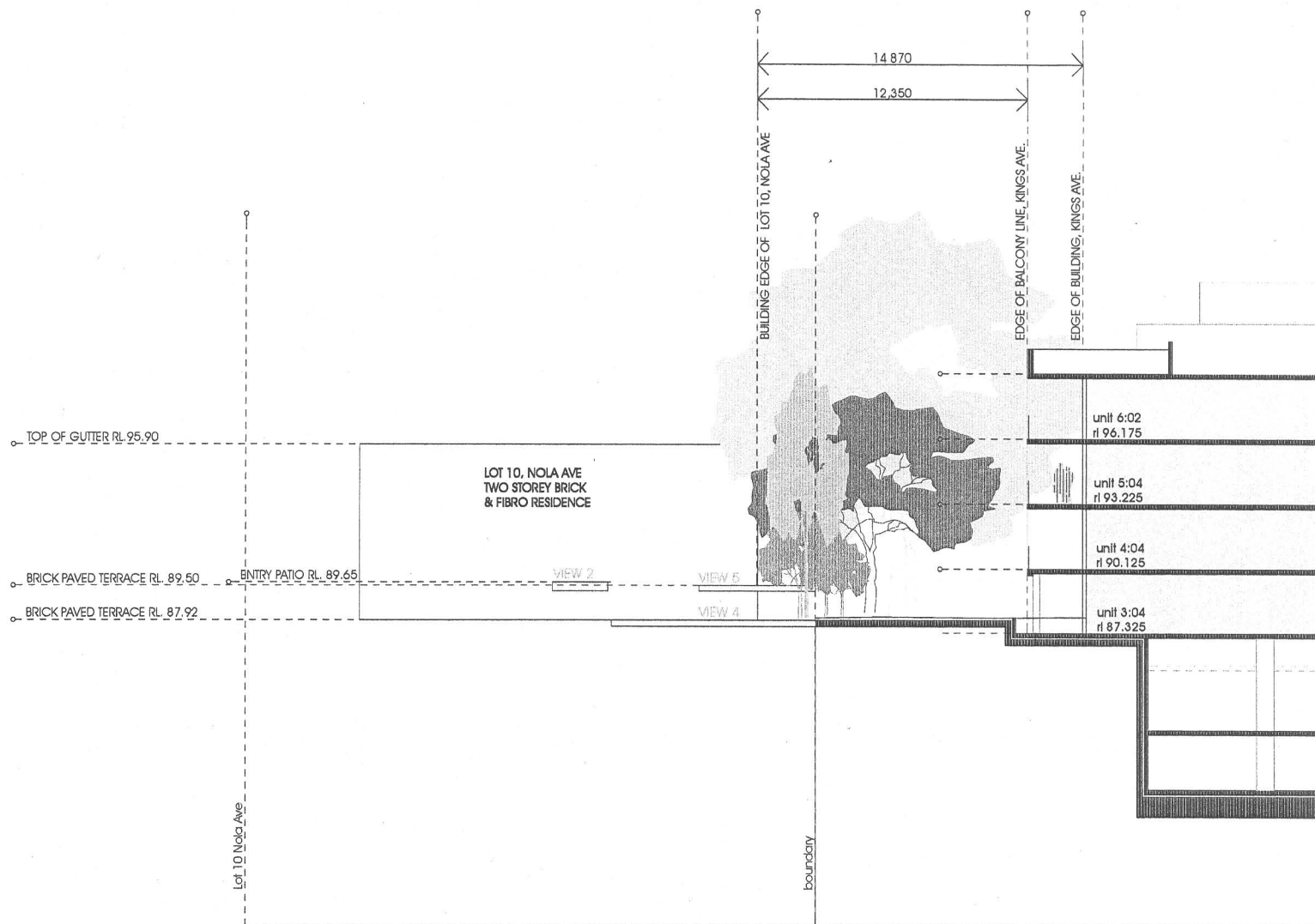


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1	05/10/17	DA Resubmission	fitzpatrick+partners																	
PROJECT NO.	DRAWING NO.	ISSUE																		
2334	SK 33	A																		



Key Plan



DIAGRAMMATIC SECTION 6
VIEW ANALYSIS LOT 10, NOLA AVE.

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AMENDMENTS
And Date Description Ck

KEY PLAN

CLIENT
EIC Development Trust

PROJECT
Kings Ave Roseville

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PROJECT NORTH
1:100 @ A1
1:200 @ A3
CHECKED
1 50mm on original
STATUS
development application

PRINT DATE
10/08/2010
APPROVED

DRAWING
DA Resubmission
View Analysis Lot 10 Sh-5

PROJECT NO. 2334
DRAWING NO. SK 35
ISSUE A

Item 4

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	9 TO 15 KINGS AVENUE, ROSEVILLE - DEMOLITION OF 4 DWELLINGS AND THE CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING CONTAINING 23 UNITS AND BASEMENT CAR PARKING FOR 41 VEHICLES.
WARD:	Roseville
DEVELOPMENT APPLICATION N^o:	1285/04
SUBJECT LAND:	9 to 15 Kings Avenue, Roseville
APPLICANT:	Colston Budd, Hunt & Kafes Pty Ltd
OWNER:	B Carbines, B Eschmann, J Teer and ETC Developments Pty Ltd
DESIGNER:	Fitzpatrick and Partners
PRESENT USE:	Residential dwellings
ZONING:	Residential 2(D3)
HERITAGE:	No
PERMISSIBLE UNDER:	KPSO – LEP 194
COUNCIL'S POLICIES APPLICABLE:	KPSO - LEP 194, DCP31 - Access, DCP40 - Waste Management, DCP43 - Car Parking, DCP47 - Water Management
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP 55, SEPP 65
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	2 December 2004
40 DAY PERIOD EXPIRED:	11 January 2005
PROPOSAL:	Demolition of 4 dwellings and the construction of a residential flat building containing 23 units and basement car parking for 41 vehicles.
RECOMMENDATION:	Approval

Item 4

**DEVELOPMENT APPLICATION N^o
PREMISES:
PROPOSAL:**

**1285/04
9 - 15 KINGS AVENUE, ROSEVILLE
DEMOLITION OF 4 DWELLINGS AND THE
CONSTRUCTION OF A RESIDENTIAL FLAT
BUILDING CONTAINING 23 UNITS AND
BASEMENT CAR PARKING FOR 41
VEHICLES.**

**APPLICANT:
OWNER:**

**COLSTON BUDD, HUNT & KAFES PTY LTD
B CARBINES, B ESCHMANN, J TEER AND
ETC DEVELOPMENTS PTY LTD
FITZPATRICK AND PARTNERS**

DESIGNER

PURPOSE FOR REPORT

To determine Development Application No.1285/04, which seeks consent for the demolition of 4 dwelling houses and the construction of a residential flat building containing 23 units and basement car parking for 41 vehicles.

EXECUTIVE SUMMARY

Issues:

Southern side boundary setback of basement car park.

Submissions:

Ninety-one (91) submissions have been submitted objecting to the application.

Pre-DA Consultation:

Yes

**Land & Environment Court
Appeal:**

Not applicable.

Recommendation:

Approval.

HISTORY

Site history:

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

Development application history:

DA 1285/04

28 September 2004

The preliminary plans submitted in relation to the development of 9-15 Kings Avenue demonstrated a

Item 4

consideration of the suggested controls and guidelines provided by the Draft DCP – Nola Avenue, precinct.

2 December 2004

Application lodged.

8 December 2004

Request from Council for a detailed landscape plan.

14 April 2004

Applicant provides a planning and design response to matters raised by Council and submits a detailed landscape plan.

17 August 2005

Amendments to increase basement setback.

THE SITE AND SURROUNDING AREA

Zoning:	Residential 2(D3)
Visual Character Study Category:	1920-1945
Lot Number:	5, 6, 7 and 8
DP Number:	9613
Heritage Affected:	No
Bush Fire Prone Land:	Yes (500mm in width for a length of 6.1 metres in north-west corner of the site)
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The subject site is located on the eastern side of Kings Avenue and the western end of Maclaurin Parade, Roseville. The site is of an irregular shape with an area of 3320 square metres. It has frontages of 67.82 metres to Kings Avenue and 36.41 metres to Maclaurin Street. The site has depths of 45 metres along the southern property boundary and 71.99 metres along the eastern property boundary. The site has a cross-fall from south-east to north-west. The centre of the site falls 10 metres over a distance of 49.5 metres towards Maclaurin Parade with a gradient of 20%. A drainage depression crosses the site at its northern end.

The site comprises four (4) allotments as follows:

9 Kings Avenue	-	Lot 5 in DP 9613
11 Kings Avenue	-	Lot 6 in DP 9613
13 Kings Avenue	-	Lot 7 in DP 9613
15 Kings Avenue	-	Lot 8 in DP 9613

No.9 Kings Avenue contains a single dwelling with minimum setbacks of 7 metres to Kings Avenue, 2.5 metres to the southern boundary and 17 metres to the eastern boundary to No.1 Nola Road. An in-ground pool with timber deck and paved private open space area as well as a timber carport also exist on site.

Item 4

No.11 Kings Avenue contains a single storey dwelling. The dwelling is set back 9 metres from Kings Avenue and approximately 20 metres from the rear (eastern) property boundary.

No. 13 Kings Avenue contains a part two storey and part single storey dwelling, set back 10 metres from Kings Avenue and 15.5 metres from the rear (eastern) boundary.

No.15 Kings Avenue contains a part two storey and part single storey dwelling. The dwelling has setbacks of 11 metres to Kings Avenue and 10 metres to the rear (eastern property) boundary. A drainage line runs diagonally through the site and the existing dwelling is setback 5 metres from the drainage line.

The site is bound to the south and east by allotments zoned Residential 2(d3) which allows for multi-unit development. The site forms part of the Nola Road Precinct within Development Control Plan No.55 which is bound by Kings Avenue, Maclaurin Parade and Corona Avenue, Roseville.

Surrounding development:

The subject site is bound by Kings Avenue, Corona Avenue, Maclaurin Parade and includes Nola Road located to the north of the precinct which has been recently rezoned Residential 2(D3) to allow for multi-unit housing.

A development application has been lodged with Council for a residential flat building comprising 32 units, car parking and landscaping at the site 8 to 12 Nola Road, Roseville. This application was refused by Council on 23 August 2005.

To the immediate west of the site, are one and two storey dwelling houses with established gardens.

Zoning history:

In the preliminary draft LEP194 adopted by Council in October 2002, the site was incorporated as Special Area 1 which required a specific plan for the area to be created prior to the lodging of development applications.

The exhibited draft LEP194 included the site within the 2D(a) zone in which five storeys were permissible. It was retained as Special Area 1.

Following the exhibition of draft LEP194, the area was removed from the plan and retained as a 2A zone. This was submitted to the Department of Infrastructure, Planning and Natural Resources in November 2003.

When the LEP was gazetted by the Minister in May 2004, the Minister included the site and Nola Road Precinct within a 2(d3) zone (excluding any special area provisions). As a result of this, site specific controls were introduced within DCP55.

Item 4

THE PROPOSAL

The proposal is to demolish four (4) dwelling houses and construct a six (6) storey residential flat building containing twenty-three (23) units and basement car parking for forty-one (41) vehicles. The residential flat building comprises two primary built elements with connecting walkways and a common lift with basement parking to each building and landscaped setbacks to all boundaries.

The main components of the development are as follows:

A total of twenty-three (23) residential units comprising 6 x 2 bedroom units, 9 x 2 bedroom units with study and 8 x 3 bedroom units with study.

A total of forty-one (41) car parking spaces comprising 31 residential spaces, 4 disabled spaces and 5 visitors' spaces plus one (1) disabled visitors' space, located on 2 basement levels.

A communal open space area of 356 square metres and 1693 square metres (51%) of deep soil area.

Building A (northern element)

Building A is the northern element of the proposal and contains a total of nine (9) units. Unit 1.01 is accessed from a private entry to the north of the building and has direct access to Basement 1 which contains twenty-nine (29) car spaces. Access to the remainder of the units is via one central lobby providing lift access. Pedestrian and vehicular access is from Kings Avenue. Bicycle spaces are provided on the eastern side of basement 1.

Building A is set back 12 metres from Kings Avenue and has staggered setbacks from Maclaurin Parade, at distances of 15.2 metres, 15.0 metres and 13.5 metres respectively. The building is set back 12.8 metres from the eastern site boundary which is common to 1 Nola Road. Building A is connected to Building B via a lobby area containing two (2) lifts which have access to all levels.

Building B (southern element)

Building B is the southern element of the proposal and contains a total of fourteen (14) units. All units have access via the lift to all levels. Basement 2 which has eighteen (18) car spaces and separate vehicular access to Kings Avenue is located directly below Building B.

Building B is set back 12 metres from Kings Avenue and 6 – 7.6 metres from the southern site boundary. It has a staggered setback from the eastern site boundary of 13.2 metres and 14.7 metres. Basement 2 is located below ground level and is set back 6 metres from the southern boundary.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, owners of surrounding properties were given notice of the application.

In response, submissions in opposition from the following were received.

Item 4

Mr D and Mrs M Richards	"Woodley" 1 Alexander Parade	Roseville
Professor D Richards	"Woodley" 1 Alexander Parade	Roseville
D & M Richards	1 Alexander Parade	Roseville
Mr D & Mrs D Grosvenor	1 Nola Road	Roseville
E Y Medina-Malaver	1/4 Maclaurin Parade	Roseville
Mrs M Hill	10 Alexander Parade	Roseville
B J Hill	10 Alexander Parade	Roseville
E Mitchell	c/- 25 Foundry Road (10/8 Larkin Street, Roseville)	Seven Hills
PM & KJ Casey	11 Alexander Parade	Roseville
J & L Sieveking	11 Pockley Avenue	Roseville
Mrs J A Burns	12 Alexander Parade	Roseville
R & H Pottie	12 Pockley Avenue	Roseville
Geoff Warren	14 Alexander Parade	Roseville
Ms S Miller	14 Carona Avenue	Roseville
Mr M E & Mrs C A Fitjer	15 Alexander Parade	Roseville
Mrs P Shadwell	16 Alexander parade	Roseville
A Brennan	16 Lynwood Avenue	Killara
The Ryan Family	16 Pockley Avenue	Roseville
Mr S and Mrs A Gunns	16-18 Findlay Avenue	Roseville
Mr J Culvenor	17 Alexander Parade	Roseville
J Culvenor	17 Alexander Parade	Roseville
M & G Winnick	17 Corona Avenue	Roseville
Dr M Evans	17 Findlay Avenue	Roseville
J & H Drexler	17 Pockley Avenue	Roseville
Mr D and Mrs G Taylor	18 Alexander Parade	Roseville
Mr A and Mrs C Turner	19 Alexander Parade	Roseville
Mr S & Mrs J Wong	19 Corona Avenue	Roseville
Mr P & Mrs S Slater	2 Alexander Parade	Roseville
Mrs M Cornell	2 Kings Avenue	Roseville
Mrs M Stuckey	2/7 Nola Road	Roseville
A M & E Thomson	2-19-21 Larkin Street	Roseville
J Moore	21 Alexander Parade	Roseville
Mr P & Mrs P Verdich	22 Alexander Parade	Roseville
M J Roche	22 Corona Avenue	Roseville
Ann Jarvis	22 Findlay Avenue	Roseville
Mr L Martin	23 Alexander Parade	Roseville
Mrs J M Martin	23 Alexander Parade	Roseville
Ms A Woodhouse & Mr P Kenny	24 Alexander Parade	Roseville
Mr P Robertson	25 Alexander Parade	Roseville
Ms Sabina Donnelley	25 Alexander Parade	Roseville
Mr P Robertson	25 Alexander Parade	Roseville
Mr Bruce Ridley	26 Alexander Parade	Roseville
E Ridley	26 Alexander Parade	Roseville
A Sheppard	29 Alexander Parade	Roseville

Item 4

Mr S Drull	29 Alexander Parade	Roseville
A & M Love	3 Alexander Parade	Roseville
Thomas Johnson	3 Pockley Avenue	Roseville
Ms S Tredinnick	3 Pockley Avenue	Roseville
Mr B & Mrs G Wood	3/7 Nola Road	Roseville
Mr K & Mrs A Tunncliffe	30 Alexander Parade	Roseville
Mrs M Gale	303 Bobbin Head Road	North Turramurra
F & S Keaveny	31 Findlay Avenue	Roseville
Ms P Palermo	33 Alexander Parade	Roseville
Mr I Rabbitt	33 Alexander Parade	Roseville
J Lindquist	33A Alexander Parade	Roseville
Mr G Nicholson	33a Alexander Parade	Roseville
A Cheng	34 Findlay Avenue	Roseville
Mrs E Matthews	37 Alexander Parade	Roseville
M & J Benson	37 Findlay Avenue	Roseville
Mr M & Mrs A Hudson	38 Findlay Avenue	Roseville
J W H Matthews	39 Findlay Avenue	Roseville
Mr F Walker	4 Alexander Parade	Roseville
Mr D & Mrs D Putica	4 Corona Avenue	Roseville
Howard & Jennifer Badger	4 Kings Avenue	Roseville
Mr & Mrs G & J Watman	45 Findlay Avenue	Roseville
P R & S M Gill	47 Findlay Avenue	Roseville
Mr T Madsen	5 Alexander Parade	Roseville
Mrs E Madsen	5 Alexander Parade	Roseville
B & V Narula	5 Nola Road	Roseville
Mr D Delany	5 Pockley Avenue	Roseville
Mr A Wong	5 Pockley Avenue	Roseville
Ms H Larcombe	6 Alexander Parade	Roseville
W P Larcombe	6 Alexander Parade	Roseville
Mr P Ewen	6 Kings Avenue	Roseville
Mr R & Mrs B Gunn	6 MacLaurin Parade	Roseville
Ms M M Borger	6 Pockley Avenue	Roseville
Mr A J Borger	6 Pockley Avenue	Roseville
Dr D Allen & Dr A MacGibbon	64 Findlay Avenue	Roseville
Bill Kricker	6A MacLaurin Parade	Roseville
C W Raine	7 Alexander Parade	Roseville
K Raine	7 Alexander Parade	Roseville
F Dunn	7 Kings Avenue	Roseville
Ms S Water	7 Pockley Avenue	Roseville
Ms D Turner	8 Alexander Parade	Roseville
Mr J Turner	8 Alexander Parade	Roseville
Ms C M Turner	8 Corona Avenue	Roseville
Mr P & Mrs P White	8 MacLaurin Parade	Roseville
H Woon & L Harn	8 Pockley Avenue	Roseville
Mr D van der Klauw	80 Findlay Avenue	Roseville
Mr K & Mrs L Sansome	9 Pockley Avenue	Roseville

Item 4

Ms Patricia Brooks
Ms G Winnick
Howard Badger
J M & L Martin

carlz_10@hotmail.com
ginabarina@yahoo.com.au
howardbadger555@hotmail.com
martin_j@dodo.com.au

The submissions raised the following issues:

Road and traffic problems

Council's Development Engineer advises that,

"the anticipated increase in traffic due to the subject development would be 10 to 15 trips per peak hour, an increase of approximately 10% over the counted peak hour traffic in Maclaurin Parade.

In terms of the impact of the development on the road network, this can be ascertained generally by the capacity of the affected intersections to cater for the increased traffic loading. This is usually determined by modelling the affected intersections at existing and post-developed use, using the INTANAL program. The results contained within the traffic report show that the surrounding road network would continue to operate at a 'good' level of service post development.

This analysis was done without taking into account the effect of traffic flow on Pacific Highway and the Boundary Street and Clanville Road intersections either side. A traffic study prepared by Council for Special Area 1 in 2003 concludes that in the afternoon peak the Maclaurin Parade intersection is actually functioning at level of service F (unsatisfactory) because of these constraints.

However no measures are in place to offset the effects of development in this area, since major improvements to the Highway are required, which is the responsibility of the Roads & Traffic Authority."

Out of character with the area

Multi-unit residential developments are permissible under the zoning and are therefore anticipated within the area. The development complies with the prescribed standards of LEP 194, in particular maximum height, number of storeys and site coverage, and has adequate deep soil landscaping and large tree planting provision, consistent with the established landscape character of the area.

Adjoining properties to the south and east of the site are also zoned for multi-unit residential development. This proposal responds effectively to the objectives and development standards of LEP 194 and DCP 55 and is therefore in accordance with the desired future character of the area.

The buildings are too high and contravene the height controls of LEP 194

The development is permissible and complies with the prescribed requirements of LEP 194, and in particular with clauses 25 I (5), 25 I (8) and 25K in terms of maximum number of storeys and ceiling height.

Item 4

Only part of the site is over 15° slope and should not justify greater height for the whole site

The site slope as defined in DCP 55 means the proportion expressed as a frontage of the vertical difference in levels between the highest and lowest points of the ground level at the outer edge of the building footprint of the proposed development to the horizontal distance between those same two points. The highest point in this case is RL 89.52 and the lowest point is RL 78.86 which is a vertical difference of 10.66 metres. The horizontal distance between those two points is 51 metres. This results in a slope of 20.9%. It is noted that the objector has referenced slope in terms of degrees as opposed to a percentage as expressed in DCP 55.

No.7 Kings Avenue will have reduced amenity, shading, loss of privacy and potential for disturbance to structural integrity

The adjoining property No.7 Kings Avenue will retain at least three hours of sunlight to its habitable rooms and the principal portion of outdoor living area between 9.00am and 3.00pm on June 21.

Privacy will be preserved as the proposed balconies are oriented to the west and east and have full length walls at their ends to prevent overlooking of the adjoining southern property. The windows located along the southern elevation have sill heights a minimum of 2 metres above the floor level and, consequently, will prevent overlooking to the adjoining southern property.

The applicant has submitted a comprehensive geotechnical report from Douglas Partners, with recommendations in terms of excavation, construction and further review and inspections. The dwelling at 7 Kings Avenue is identified as the closest structure to the proposed works, being 8.4 metres from the basement car park, and a dilapidation report is recommended. Standard safeguards in terms of excavation, including a dilapidation report are included in the recommended conditions of consent (See Conditions Nos.15, 40, 41, 42, 44, 45, 83, 84, 85).

Will established trees be planted on the nature strip?

Six (6) super advanced *Eucalyptus saligna* (Bluegum) trees are to be established on the nature strip.

The plant located on the roof will generate noise

The air conditioning plant located on the roof at the southern end of Building B is located four storeys above ground level and is enclosed by a perimeter wall. Given the distance from adjoining properties of 10 and 15 metres and the enclosure provided, noise from the plant is unlikely to cause a nuisance. Notwithstanding the above, a suitable condition is recommended requiring that noise emission from the mechanical ventilation system is not to exceed the background noise level when measured at the nearest property boundary (See Condition No.64).

The materials do not reflect the surrounds for the proposed urban conservation area

The statement of significance for Urban Conservation Area 4 – West Roseville mentions that the area is characterised by a predominance of Federation and Interwar period residential development.

Item 4

The houses while, varied in architectural character, exhibit compatibility of form, massing and detailing. However, there is no mention of specific materials. The specific controls for the Nola Road Precinct, Roseville, and in particular, Design Control C-5V include the use of lightweight building materials such as timber, copper or stucco and glass. The proposal includes specific building elements that express warm textured materials such as stone and glass. These materials respond to the environment and contribute to the desired future character of the area.

Review panels should be formed under SEPP65 to review and comment on design

A review panel under the provisions of SEPP 65 has not been established at this time. However, Council utilises Mr Russell Olssen as an independent urban design consultant, until such time as a panel is constituted.

The proposal does not comply with the setbacks and building articulation required under DCP 55

The proposal complies with the setbacks and articulation as required by DCP 55. The applicant has submitted revised plans with the basement car park now being set back a minimum of 6.0 metres from the southern site boundary. The framed glass louvers to the east lobby façade has a wall plane area of 122 square metres instead of a maximum area of 81 square metres. These matters are considered later in the report under Policy Provisions.

The building is too long in terms of DCP 55

DCP 55 provides that the width of a single building on any elevation facing the street should not exceed 36 metres. Building A has a width of 20.5 metres, Building B has a width of 25.1 metres and the lobby has a width of 8 metres resulting in a total width of 53.6 metres. This non-compliance is assessed under DCP 55 considerations below.

It is not clear how the garbage truck will exit the site in a forward direction

The garbage truck will exit the site in a forward direction by utilising in the turning bays located on the western side of the garbage room.

There is no discussion in the Statement of Environmental Effects on bushfire provisions

There is no discussion in the Statement of Environmental Effects on bushfire provisions, however, as part of the site analysis, the applicant has provided details on land form and vegetation. The Rural Fire Service advises that it raises no concerns in relation to bushfire matters for the proposed development.

There is no provision for restoration and maintenance of Blue Gum Creek

The drainage reserve has been piped, however, the proposed landscape works result in the area being planted with riparian planting.

Item 4

The detention tanks are totally inadequate

Council's Development Engineer advises that the submitted Stormwater Management Plan has been designed in accordance with the Council requirements contained in Water Management DCP 47 and the proposed detention tanks are satisfactory and compliant with DCP 47.

Removal of large canopy trees

Council's Landscape Development Officer advises none of the twenty-one (21) trees identified on or associated with the site are proposed to be removed as the proposed development is located within the existing dwelling footprints. Notwithstanding the above, the consulting arborist has recommended the removal of three (3) indigenous trees, being numbers 7, 10 and 15, which have structural defects. It is also recommended that the mature coral trees located on site and within the drainage reserve be removed. The coral trees are exempt under Council's Tree Preservation Order and identified as an Urban Environmental Weed and their removal is required. In addition, due to the undergrounding of existing overhead wires and the repeated poor pruning that has been undertaken, it is proposed to remove the existing trees in front of the site and replace these with endemic tree species.

No consideration of levels of asbestos or lead dust

Suitable conditions are recommended in relation to the proper disposal of any asbestos materials, or material that may contain lead during the demolition process (**Refer Conditions Nos 52 and 60**).

The top floor contributes to overshadowing of No.7 Kings Avenue

The shadow diagrams submitted indicate that the top floor of Building B will contribute to the shadow cast upon No.7 Kings Avenue from around 11.30am until 3.00pm on the 21 June. However, No.7 Kings Avenue will still receive more than 3 hours of solar access on June 21.

The proposal does not contemplate any performance bonding in relation to successful execution and completion of the excavation process

No bond is imposed in relation to the excavation process. Relevant conditions in relation to excavation and geotechnical aspects have been included in the consent. Any unlikely problem with the excavation process is in the domain of the geotechnical consultant engaged by the applicant.

Extensive use of glass and air conditioning will be inadequate

Whilst the entry to the units is glazed, the vertical louvered panels will assist with cross ventilation. The inclusion of air conditioning will assist in climate control given that the unit design provides for cross ventilation. However, the provision of air conditioning and any impacts can be addressed through a condition (**Refer Condition No.64**).

Loss of solar access to No.2 Kings Avenue

No.2 Kings Avenue will be affected by shadow cast upon the south-eastern corner of the front garden from 9.00am to 10.00am. Therefore, No.2 Kings Avenue will not be adversely affected by shadow, and will receive more than 3 hours solar access on June 21.

Item 4

The development is not suited to the elderly due to the steepness of Maclaurin Parade

The proposed development is not intended solely for the use of the elderly.

Local roads will be blocked during the construction period local

The applicant has submitted an environmental Site Management Plan which includes measures for construction traffic. This matter is discussed later in the report under the Development Engineer's comment. The Environmental Site Management Plan states that construction traffic is to use Maclaurin Parade and Kings Avenue. Council's Strategic Traffic Engineer and Design Engineer consider this to be the most desirable route. A works zone will be required along the site frontage **(Refer Condition No.86).**

The corridor should be included in the footprint

The corridor of the lobby area is included in the building footprint calculations.

The DA omits information in relation to site coverage, deep soil, site slope and 60% top storey

Plans have been submitted in relation to site coverage (refer drawing no.A-113), deep soil (refer drawing no. A-109). Reference to site slope and floor area compliance is included in the Statement of Environmental Effects.

The lift well and lobby connects the two buildings to form one building

Whilst the lift well and lobby connect the two buildings, the southern end of the lobby, where it connects to Building B, is 2 metres in width and maintains an appropriate connection between the two building elements.

The development does not provide detailed hydraulic plans to assist in the calculation of site cover and deep soil zones

Adequate plans have been provided by the applicant that demonstrate the calculation of site cover and deep soil zones.

The location of the driveway to Building A is too close to the intersection of Kings Avenue, Maclaurin Parade and Pockley Lane

Council's Development Engineer has not raised concern in relation to the location of either of the proposed driveways.

The plan shows a pedestrian bridge across Blue Gum Creek reservation to Maclaurin Parade. Will Council be responsible for the bridge?

The applicant has deleted the pedestrian bridge from the proposal.

Item 4

The proposal includes a riparian zone of 10 metres from the creek, whereas DCP55 requires a zone of 15 metres

The setback proposed by the applicant is to allow for rehabilitation of Blue Gum Creek as part of the natural landscape and to enhance and reinforce the character of Ku-ring-gai, as well as prevent pollution and contamination down stream. The drainage reserve has been piped and, as such, there is no formal requirement within Council's Riparian Policy for the existing gully to be planted as a riparian zone. Nevertheless, the applicant has still chosen to do this. Notwithstanding this, the proposed landscape works will result in the area being planted with riparian planting. Therefore, the natural landscape will be enhanced and the piped drainage reserve will prevent pollution and contamination down stream.

No construction plan has been submitted

The applicant has submitted an Environmental Site Management Plan to address construction management. This plan is addressed by Council's Development Engineer later in the report under Consultation within Council.

The proposal will de-value surrounding properties

This is not an issue for consideration under the Environmental Planning and Assessment Act 1979.

The applicant has not prepared a preliminary contamination report

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

The proposal is inconsistent with the subjectives of Urban Conservation Area 4 – West Roseville

Given that LEP 194 has been gazetted and Council has not adopted Urban Conservation Area 4 as a conservation area in a LEP, Council has little ability to manage the area as an urban conservation area.

There is no discussion in the Statement of Environmental Effects as to the applicability of State Environmental Planning Policy 10, for Low Rental Accommodation

State Environmental Planning Policy No. 10 – Retention of Low-Cost Rental Accommodation has the aim and objective to provide a mechanism for the retention of low cost rental accommodation. The demolition of the four (4) dwellings that form part of the proposal does not require consideration against SEPP10.

Item 4

Any external lighting should be directed downwards and have minimal spill

The spill from any external lighting should be contained within the property boundaries. A condition has also been recommended in this regard (**Refer to Condition No.30**).

No mention of replacement of Wiananmatta shale derived soil, health of blue gums and interdependent species

The Statement of Environmental Effects includes an Arboricultural Report and a Flora and Fauna Assessment in relation to the Blue Gum High Forest Community.

The load upon utilities is not mentioned

The load upon utilities is a matter for the respective authority such as Energy Australia or Sydney Water. Energy Australia have advised that it will be necessary to establish an electrical substation on the site.

Concern in relation to air quality as each unit has two (2) fireplaces

The applicant advises that the proposed fire places are electric, therefore air quality will not be adversely affected.

Reflection of sunlight from glass in the afternoon

There is some potential for sunlight reflection off the vertical panel lift glass façade and glass lobby façade located on the western side of the proposal. However, the greater areas of glass facing the units are either appropriately shaded by being recessed into the building, screened by landscaping or by sliding screens. **Condition No.112** is recommended to minimise any reflectivity.

Loss of privacy to 1 Nola Road

The eastern façade of the development is located a minimum of 24 metres from the dwelling at 1 Nola Road. The separation between buildings together with the significant stand of canopy trees and future landscaping will ensure that the privacy of 1 Nola Road is not adversely affected.

Amended plans

In accordance with Council's Notification Policy the amendment made to the development application was not re-notified as, being a contraction of the subterranean footprint of the building, the amendment would not have any greater impacts than the original proposal.

Item 4

CONSULTATION - WITHIN COUNCIL

Urban Design

Council's Urban Design Consultant, Russell Olssen, has commented on the proposal in the context of SEPP 65 and Residential Flat Design Code considerations as follows:

"Principle 1 : Context

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

Comment :

The site currently comprises four individual lots each with detached dwellings occupying the centre of the lots. Extensive existing trees are located to the north along the McLaurin Parade frontage and along the eastern boundary where the site adjoins neighbours which front Nola Road. There appear to be no significant trees between the existing houses, and few trees to the west frontage along Kings Avenue. The proposed development on the amalgamated site preserves the vast majority of the above trees within DCP 55 setbacks, whilst the proposed building footprint in the centre of the site is almost identical to the footprint of the existing four dwellings.

Principle 2 : Scale

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

Comment :

The adjoining sites are zoned 2(d3) and the proposed scale of development will relate to future adjoining developments. The scale of this development sits comfortably in the streetscape as it steps with the topography in an appropriate and skilled manner.

It should be noted that the building exceeds 5 (4.6) storeys in some parts to the height of 6 (5.6) storeys. LEP 194 allows this additional height on steeply sloping sites for up to 25% of the building footprint.

Principle 3 : Built form

SEPP 65 : Good design achieves an appropriate built form for a site and the buildings

Item 4

purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Comment :

The entire western building frontage to Kings Avenue is set back 10m. DCP 55 requires that the building be set back 12m with only 40% of the frontage encroaching to 10m. The site boundary does not prevent the building moving back two metres from the street so that it is in line with future neighbouring developments. The eastern setback to properties that front Nola Road is shown as 10m. As this is a side setback in most part, this setback could be reduced to 6m under the LEP. Whilst there are significant trees in this part of the site that should be retained, it appears there may be some give in which to accommodate an increased setback.

The setback from the riparian corridor appears to be acceptable, however the actual riparian line and associated setback are not clearly located on any drawing and should be verified.

Basement 1 and Basement 2 car parks extend into the southern setback considerably. Whilst not obtrusive as they are completely buried, the extent of the encroachment leaves an inadequate width of deep soil for large tree planting on the boundary. The fire exit should be better located and integrated with the building.

Principle 4 : Density

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

Comment:

The density of development appears to be appropriate and in line with LEP 194. However, unit 1.01 appears to be substandard having been accommodated in the fall of the land at the bottom part of the site. Its amenity is reduced due to its proximity to the car park, its circuitous private entry from the street, and its lack of access to the lift core that gives access to the communal open space on site. In addition, the amount that the unit is buried provides for only high windows to both of the bedrooms. This is detrimental to the outlook from these rooms and may also pose a privacy problem from the garden area.

It is recommended that unit 1.01 be relocated to resolve the above issues. The Level 1 basement should be re-designed, so that the garbage room and car park entry are relocated, allowing Unit 1.01 to be located on the northern end of the building. This would provide a better street address to the unit, a northern aspect and would avoid the need for highlight bedroom windows.

Item 4

Principle 5 : Resource, energy and water efficiency

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

Comment:

Unit arrangement and circulation is good and provides for ventilation and north orientation to a good proportion of the units, even though heavy tree cover may prevent direct sunlight.

The inclusion of an air conditioning system is questionable and given that the unit design provides for cross ventilation, air conditioning may be unwarranted. The size and location of the plant room is of concern. In terms of elevation and building bulk the enclosure poses no problems however, the dual access path through units 7:01 and 7:02 is of concern. It is recommended that, if the air conditioning plant room is required, that access through units 7:01 and 7:02 is avoided.

(A general note – the fire stairs appear to open into unit 7:02 at their top flight). It is recommended that provision be made for bicycle parking in the car park.

Principle 6 : Landscape

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

Comment :

The architectural drawings refer to the landscape drawings for the details of the landscape area. In both sets of drawings, the limits of the private open space for the ground floor apartments are unclear.

It appears that the extent of the private outdoor space for the ground floor units, namely unit 1:01, 3:03, 3:04 and 3:05, is solely terrace area. The opportunity to provide ground floor apartments with gardens appears not to have been taken. Of primary concern here though, is that there are no details of privacy provisions for these apartments from the communal areas. No fences or the like have been clearly documented. The floor levels of unit 1:01 and 3:04 both suffer from being, in part, lower than or equal to the ground line outside allowing viewing down into living spaces. Units 3:03 and 3:04 have stairs directly from their terraces to the bbq areas provided with no fence or gate shown. The design of external private spaces needs to be further considered and privacy measures incorporated. It is recommended that the private and communal spaces be better defined.

Item 4

The landscape design proposes removal of all existing trees in the public domain along Kings Avenue, which is inconsistent with the perspective provided and again raises questions about maintenance of a cohesive street character.

The trees planted on the southern boundary do not have enough width of deep soil to accommodate them (see car park comments above). At best, these trees are at a disadvantage and will grow at an unequal rate with the rest of the new trees on site, whilst the majority of their roots will spread to the neighbouring property. It is important that the scale of these trees are equal to the heights of the buildings thus the position of the car park within this setback should be revised to accommodate them.

The pedestrian path through the riparian zone needs to be considered further, both in terms as an extension of the public domain and in terms of construction and environmental impact on the water course corridor.

The bbq areas and sun deck areas are appropriately located and designed, however their size is relatively diminutive. Given there are 23 units in the development it is recommended that these spaces increase in size slightly without losing their intimacy. The current design also indicates that units 3:03 and 3:04 have direct access to each of the BBQ spaces. This relationship has the tendency for the BBQs to be appropriated for private use and this should be mediated through privacy devices – fences, screens or the like.

No communal clothesline area is provided for resident's use and no provision of clothesline has been shown in the apartment design. This will encourage constant use of clothes dryers. It is recommended that drying balconies are provided, or a discreet drying area in the communal landscaped area.

Principle 7 : Amenity

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

Comment:

Amenity is generally very good. However, there exists a privacy conflict between the lift lobby and the living room of unit 7:02 which needs to be addressed.

An accessible unit plan has not been included in the DA set. Units which are adaptable should be nominated and the alternative adjusted layout provided to demonstrate compliance. In their current state, no units comply with accessibility standards.

Principle 8 : Safety and security

SEPP 65 : good design optimises safety and security, both internal to the development

Item 4

and for the public domain. This is achieved by maximising activity on the streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

The isolated location of Unit 1.01 and its circuitous entry may create safety and security issues.

Principle 9 : Social dimensions

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

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

The mix and sizes of units are appropriate to the area.

Principle 10 : Aesthetics

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

Comments:

The articulation of these facades, their proportions, materials and colours are appropriate. The glass lift shaft and lift car appear to be unrealistic in their degree of transparency and would likely have to include spandrel separation between floors but in general, the scheme is well considered and is aesthetically acceptable.

Recommendations

It is recommended that:

- *The building is set back to comply with the 40% building alignment at 10m setback, and the majority at 12m*
- *The Level 1 basement is re-designed, so that the garbage room and car park entry are re-located, allowing Unit 1.01 to be located on the northern end of the building. This would provide a better street address to the unit, a northern aspect and would avoid the need for highlight bedroom windows.*
- *The basement fire exit is better located and integrated with the building, to allow more deep soil area adjacent to the southern boundary and promote tree growth*

Item 4

- *The ground level private and communal spaces be better defined if the air conditioning plant room is required, that access through units 7:01 and 7:02 is avoided*
- *Drying balconies are provided, or a discreet drying area in the communal landscaped area.*
- *The privacy conflict between the lift lobby and the living room of unit 7:02 is resolved*
- *Detailed landscape design issues listed above are considered*

This is generally a very good design which should be improved by these recommended amendments.”

Comment:

The applicant has submitted amended plans to conform with the specific controls for the Nola Road Precinct, Roseville which allows a setback of between 10-12 metres. The building has been moved back 1100 mm except for the two basement level garages.

In relation to Unit 1.01, the unit is located at the north-east corner of the building at ground level. Privacy to the two bedrooms from the external communal area is provided by way of a screening wall within the garden area. The applicant has provided amended drawings to provide larger windows to the two bedrooms.

The basement fire stair has been relocated to the south-east corner of the building and set back 6 metres from the boundary to allow deep soil planting.

The air conditioning plant room is accessible through the fire stair thereby avoiding units 7.01 and 7.02.

Drying areas can be provided or balconies or a discreet drying area can be provided in the communal landscaped area (**Refer Condition No.31**).

The privacy concern between the lift lobby and the living room of Unit 7.02 has been addressed by the provision of a privacy screen in front of the lift and a planter bed at the edge of the unit.

A detailed landscape design has been submitted for consideration.

The above amendments/matters satisfactorily address the issues identified by Council's Urban Design Consultant.

Heritage

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

UCA 4 – West Roseville

The site is included in UCA 4 – West Roseville. Council reviewed the area in 2003 after numerous requests were received from residents in the area, particularly Pockley Avenue.

Item 4

The immediate area is hilly with creek lines running through it and tall native trees following the creek lines. The immediate area has a very different character to most of Roseville mainly derived from the harmonious relationship of the modest and consistent scale of housing and the natural environment.

The final version of the UCA report recommended excluding parts of the National Trust UCA, including Corona Avenue, part of the Pacific Highway, Nola Road and part of MacLaurin Street. It did not recommend excluding any of Kings Avenue.

Given that LEP 194 has been gazetted and Council has not adopted UCA 4 as a conservation area in a LEP, Council has little ability to manage the area as a UCA. It is unfortunate that the rezoning has occurred. However, the majority of UCA 4 could be appropriately managed in the future.

Demolition

The UCA study commissioned by Council recommends that contributory items should be retained due to their significance and setting. The houses at No 9 & 11 Kings Avenue were graded as contributory to the UCA. The houses at 13 & 15 were graded as non contributory and thus demolition would not be prohibited.

It is noted that Council exhibited the study but has not adopted the report or any of its findings. No 11 Kings Avenue is a very intact brick cottage and its demolition would be regrettable. No 9 is relatively intact but has been painted and subject to some minor alterations. No 13 is a Post War house, although is somewhat similar in scale to the bungalows, but could not be considered contributory. No 15 appears to be a bungalow that has been altered, possibly on several occasions and has lost its ability to be considered contributory.

While I can not agree that demolition of No 9 & 11 is an acceptable activity, given rezoning on the site and the fact that Council has not adopted any of the recommendation in the UCA study, I can not oppose demolition. I recommend recording of all houses be undertaken before demolition to the Heritage Council guidelines for local significance. Records should be lodged with the local history section of the Gordon library, on Council's property files and with the Ku-ring-gai Historical Society.

Design of the proposed residential flat building

The building is clearly contemporary and in my opinion a good outcome given the constraints on the site and the objectives of DCP 55. The façades are well articulated and employ a range of materials and textures. There is good definition in the facades and the building would be perceived as three sections linked together with the glazed entry and vertical louvered panels. Colours are neutral and warm with some feature stonework at the base and timber panels over several floors.

Item 4

Conclusions

Demolition of No 9 & 11 Kings Avenue would be regrettable however as the sites have been rezoned and Council has not adopted UCA controls, I do not oppose demolition. All buildings should be recorded to the Heritage Council guidelines for local significance before demolition.

In my opinion the designers have tried to understand the site and its context and have prepared a well thought out design given the site constraints and Council's guidelines in DCP 55. In my opinion it is relatively successful."

Landscaping

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

"The site

It is proposed to demolish the existing dwellings and associated structures and construct a five storey residential flat building with basement parking on the existing amalgamated corner site of 3 320sqm with vehicular access from Kings Ave. The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and lawn expanses. The site is reasonably steep and falls to a piped drainage reserve which traverses the site adjacent to the northwest/Maclaurin Parade site boundary. Large mature exotic and native trees (including some urban weed species) are located primarily within the reserve embankments and the rear site boundary. The front of the site is typically urban with modified garden settings with paving, retaining walls and pathways along with horticultural planting.

Impacts on trees/Trees to be removed/Tree replenishment

The proposed development will result in the removal of all existing vegetation within the central core of the site to accommodate the proposed building. As proposed the development will also result in the removal of the existing street tree planting.

*Of the twenty-one trees identified as being located on or associated with the site, no trees are required for removal as a result of development as the proposed residential flat building is located within the existing dwelling footprints. However, the consulting arborist, Ian English of Sydney Arboricultural Services, recommends the removal of three indigenous trees, being #'s 7, 10, and 15 which have structural defects. In addition, it is recommended that the mature Coral trees (*Erythrina indica*) located on site within the drainage reserve also be removed. The Coral trees are exempt under Council's Tree Preservation Order and identified as an Urban Environmental Weed and as such their removal is required.*

In addition, due to the under grounding of existing overhead wires, and the repeated poor pruning that has been undertaken, it is proposed to remove the existing street tree planting in

Item 4

front of the site. No objection is raised to the proposed street tree removal subject to them being replaced with a native endemic tree species as an evenly spaced, formal avenue planting that is consistent with the existing streetscape character.

Arborist's report

A fully detailed arborist's report by Sydney Arboricultural Services, Ian English, has been submitted as part of the development application. Landscape Services does not disagree with the recommendations made, and can support the recommended tree removal.

Nature strip

The submitted revised landscape plan has addressed previous concerns with regard to the nature strip. The existing landscape character is now to be retained with tree replacement as a result of the undergrounding of existing overhead wires. As the site interfaces with existing low density residential development, it is considered important that the streetscape character, which is reflective of the broader Ku-ring-gai character, be maintained. As such, it is required that the existing pedestrian footpath be maintained in situ and the proposed street tree planting in the nature strip be planted as a formal avenue planting within a grassed/turfed verge. Revised plans reflect this requirement.

The revised landscape plan submitted with the application has provided further detail with regard to proposed planting, addressing previous concerns. Due to the intended bushland character of the site, much of the mass planted areas are to be planted as tube stock, with advanced plantings of shrubs and super advanced tree planting.

From a design viewpoint, the new landscape proposes to reinstate the site as a Sydney Bluegum High Forest bush setting, which would be consistent with the original plant community of the site and immediate area. There is no objection raised to this design philosophy as it complies with Council's DCP55 requirements, but it must be considered in context with the surrounding urban setting that exists around the site. As a result of this, revised plans have maintained the nature strip as an open nature strip, consistent with the existing streetscape.

It is noted that the site is located on the outer edge of the '100m buffer zone' identified as Bushfire Prone Land mapping, with the buffer zone entering the site by approximately 1.0m. Concern is raised as to whether the proposed planting philosophy will result in the site becoming bushfire prone and ultimately result in a fire hazard. The development proposal has been referred to the RFS for comment.

Riparian zone

As the drainage reserve has been piped there is no formal requirement within Council's Riparian Policy for the existing gully to be planted as a riparian zone. However, it must be noted that the proposed landscape works will result in the area being planted with riparian planting. This can be supported.

Item 4

Pedestrian path linkage

The proposed timber pedestrian bridge proposed from Maclaurin Parade through the development site to Kings Ave, has been deleted and a new pedestrian link is proposed from Maclaurin Parade to the rear of the site. No objection is raised to the amended proposal. It should also be noted that it may be considered to be a 'structure' which will result in it being excluded from deep soil landscape area calculations particularly if it exceeds 1.0m width.

Drainage plan

Revised plans have deleted the impervious membrane from the bio-retention swales as the existing clay based soils will retain moisture. As such, as there are no structures proposed the bio-retention swales can be included within the deep soil area calculations. Previous concerns have been addressed.

Deep soil landscaping

The application states that 50.7% (1682sqm) of the site is calculated as deep soil landscaping, which numerically complies with the minimum requirements as stated within the LEP. Landscape Services is in agreement with the areas shown as being included within the calculable deep soil area.

Special area

The site is located within a nominated Special Area known as the Nola Road Precinct, Roseville, which is detailed within section 7.1 of DCP55. The proposed development due to its proposed planting philosophy (SBHF) and rehabilitation of Blue Gum Creek, generally complies with the DCP's future character and design objectives and design controls. One exception is that the landscape works proposes a retaining wall, within 15m of the centre line of Blue Gum Creek. No objection is raised to the location of the retaining wall as its location does allow for reinstatement of the SBHF plant community, without directly influencing Bluegum Creek, particularly as it has been piped in this locale.

The application can be supported by Landscape Services with conditions.

Engineering

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

"In summary the application can be supported by Development Engineers, subject to the imposition of the recommended engineering conditions of consent.

A pre-DA meeting was held for this site at which the applicant was presented with assessment criteria related to the engineering aspects. Generally the applicant has had regard to the

Item 4

engineering issues raised at this pre-DA meeting, and has submitted the requested information.

The documentation considered consists of a Statement of Environmental Effects (SEE) and Environmental Site Management Plan prepared by Colston Budd Hunt & Kafes and a set of A3 size architectural drawings Fitzpatrick + Partners DA set November 2004.

The application is for a residential flat building comprising 23 units (15 x 2 bedroom and 8 x 3 bedroom). Two levels of basement car parking are proposed, with two separate vehicular entrances from Kings Avenue.

It is noted that the building footprint appears to be closer to Blue Gum Creek than the 15 metres nominated in DCP 55 Section 7.1.6, however the application was lodged prior to the adoption of DCP 55.

Subdivision

The application form indicates that subdivision is not proposed under this DA, hence no subdivision conditions are recommended. So that the building is not constructed across lot boundaries, the applicant will be required to consolidate all the lots prior to issue of the Construction Certificate.

Traffic generation

The applicant has submitted a Traffic Report with the Development Application (Annexure J of the Statement of Environmental Effects, report by Colston Budd Hunt & Kafes). The report is generally satisfactory.

Based on LEP 194, the proposal requires a minimum of 31 resident spaces and 6 visitor spaces. The proposal provides 47 spaces and therefore complies.

The anticipated increase in traffic due to the subject development would be 10 to 15 trips per peak hour, an increase of approximately 10% over the counted peak hour traffic in Maclaurin Parade.

In terms of the impact of the development on the road network, this can be ascertained generally by the capacity of the affected intersections to cater for the increased traffic loading. This is usually determined by modelling the affected intersections at existing and post-developed use, using the INTANAL program. The results contained within the traffic report show that the surrounding road network would continue to operate at a 'good' level of service post development.

This analysis was done without taking into account the effect of traffic flow on the Pacific Highway and the Boundary Street and Clanville Road intersections either side. A traffic study prepared by Council for Special Area 1 in 2003 concludes instead that in the afternoon

Item 4

peak the Maclaurin Parade intersection is actually functioning at level of service F (unsatisfactory) because of these constraints.

However no measures are in place to offset the effects of development in this area, since major improvements to the Highway are required, which is the responsibility of the Roads & Traffic Authority. No additional conditions are applicable.

Construction management

An environmental site management plan has been submitted to address Council's request for a construction management plan (Colston Budd Hunt & Kafes Ref: 5363).

Section 3.4.5 states that construction traffic is to use Maclaurin Parade and Kings Avenue only. This has been discussed with Council's Strategic Traffic Engineer and Design Engineer and is considered the most desirable route.

Accident history in the vicinity is restricted to one incident in September 2003 in which a motorcyclist lost control at the intersection of Kings Avenue and Maclaurin Parade. There is a hazard marker for traffic approaching in Maclaurin Parade and a double centreline around the bend, however during a site inspection today there was a vehicle parked near the bend, probably contrary to Rule 208(6) of the Australian Road Rules. Additional measures are not considered to be warranted for the traffic generated by the completed development. Construction traffic management will include warning signs in Maclaurin Parade, so vehicles are expected to be approaching the intersection with caution during the construction period.

Section 3.2.1 refers to a possible construction zone along the site frontage. A Works Zone will be required, and a condition has been recommended to that effect, including the need for approval by Traffic Committee and the payment of the necessary fees.

Vehicle access and accommodation layout

Proposed vehicle access and accommodation arrangements have been assessed against the Australian Standard 2890.1 2004 – "Off street Car Parking" and DCP 43 – "Car parking".

The northern driveway entrance (to the lower basement parking level) complies with AS2890.1 in relation to its location with respect to the corner. The traffic report contains a recommendation for trimming of vegetation at the corner. This should be done before commencement of construction and has been included in the recommended conditions.

The following table summarises Development Engineers assessment of the proposed parking arrangements against the Australian Standard 2890.1 - "Off-street car parking":

Aspect	Comment
<i>Dimensions of spaces</i>	<i>Satisfactory</i>
<i>Internal aisle widths</i>	<i>Satisfactory</i>
<i>Driveway locations</i>	<i>Satisfactory</i>

Item 4

<i>Sight distances</i>	<i>Convex mirror to be provided at lower entry bend</i>
<i>Driveway widths</i>	<i>Satisfactory</i>
<i>Driveway grades</i>	<i>Satisfactory</i>
<i>Height clearance in parking area</i>	<i>Satisfactory</i>
<i>Circulation ramps and roadways</i>	<i>Satisfactory</i>

Garbage collection

A waste storage and collection area is required internally under Council's DCP 40 for Waste Management. This has been provided in the lower basement parking area and there is adequate provision for Council's waste collection vehicle to enter the subject site, collect the garbage and then exit the site in a forward direction.

Impacts on Council infrastructure and associated works – comments

The site has a new footpath along most of the frontage, however it is understood that undergrounding of services will be required, which may be expected to damage the footpath and nature strip. Kings Avenue itself appears to have subsided slightly at a couple of locations in the middle of the road, possibly due to service trenches or other cause. The pavement is not expected to stand up to the type of loading associated with the demolition, excavation and construction works, so dilapidation surveys will be required before and after the works, with full restoration of any damage by the developer prior to the issue of an Occupation Certificate.

A \$50,000 bond to cover restoration of such damage (or completion of incomplete works by Council) is to be applied.

There is no kerb and gutter along Maclaurin Parade between Kings Avenue and Nola Road. There are four or five large eucalypts in the kerb line, and even if kerb was constructed in front of the trees on a different line, the associated earthworks would be expected to damage the root systems. For that reason, no additional kerb and gutter is required to be constructed with this development.

Site drainage comments

The submitted concept stormwater management plan (Patterson Britton & Partners Report Issue No. 1, dated November 2004) has been designed in accordance with the Council requirements contained in Water Management DCP 47. A stormwater retention requirement of 3000 litres per unit applies (total 69m³) – and this water is to be used for toilet flushing, laundry, car washing and irrigation.

Water quality measures have also been included, which is to be commended. Provided that the proposed devices can be accommodated with the deep soil zone, (see comments above), the system as laid out in the stormwater management plan should be satisfactory.

Item 4

A car washing bay will be required. The garbage collection vehicle parking area or one of the visitor spaces may be appropriate for this. The location can be shown on the Construction Certificate plans.

Flooding and overland flow comments

Blue Gum Creek adjacent to the development site is a formed channel with a low flow pipe. An overland flow assessment has been carried out by Patterson Britton which demonstrates that the basement garage will not be affected by overland flows during the standard flood event.

Geotechnical / structural comments

A geotechnical investigation has been carried out and the report, Douglas Partners report No. 37412, dated October 2004, is included in the SEE as Annexure O.

The report contains recommendations for excavation trials and vibration monitoring, excavation support and foundations. The dwelling at 7 Kings Avenue is identified as the closest structure to the proposed works and dilapidation reporting is recommended. This is included in the recommended conditions of consent.

Summary

There are no engineering objections to the proposed development."

Comment:

The impermeable membranes for the bioretention swale and bioretention basins mentioned in Deep Soil are no longer required as the applicant's consultant engineer advises that the predominantly clayey subsoils will perform the same function.

CONSULTATION – OUTSIDE COUNCIL

Rural Fire Services

Under the provisions of Section 79BA of the Environmental Planning and Assessment Act 1979, the development has been referred to the Commissioner of the NSW Rural Fire Service who commented, as follows:

"I refer to your letter dated 16 May 2005 seeking our advice in accordance with section S.79BA of the Environmental Planning and Assessment Act 1979 for the above property.

Bases upon an assessment of the plans and documentation received for the proposal, the NSW Rural Fire Service raises no concerns or special consideration in relation to bushfire matters for the proposed development."

Item 4

Energy Australia

“Thank you for the early notification of the Housing developments DA 1285/04 at Kings Avenue, and Maclaurin Parade. It will be necessary to establish an electrical substation on the premises and an area to satisfy Energy Australia’s conditions for a kiosk type substation that the developer may consider more appropriate. The developer should be made aware within the DA condition of Energy Australia requirement and space should be allocated that meets all the necessary statutory requirements. Final supply arrangements cannot be assessed until a comprehensive list of the electrical loading for the development is provided. Energy Australia request the Shire to add advice into the development application that early notification to all service providers be required to ensure supply can be made available at a suitable location to all parties.

Further to the State Government’s investigation into the installation of underground cables to replace overhead construction where it was considered that developers and individuals would be responsible of bearing the cost of this work where appropriate. Where large developments as these, the developer should be requested to arrange the underground of any overhead construction near their development or at the minimum install conduits within the footway along the property line of the development to accommodate future underground facilities.”

The applicant has allowed an area for a kiosk located on the northern side of the entry to Basement 1 while still allowing a compliant area of deep soil landscaping.

PROVISIONS OF RELEVANT LEGISLATION

State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development

The following is a design statement by the project architect Fitzpatrick and Partners.

Within close proximity of a major urban centre yet still within a traditional suburban context, Kings Avenue, Roseville provides an opportunity to expand on Sydney’s evolving medium density housing.

The design approach is intentionally contemporary. It does not attempt to mimic the surrounding detached cottages and residential forms; preferring to adopt modern environmental technologies, and a fresh, holistic approach to site, landscape and context. This creates a building which embraces the intrinsic characteristics of the site.

The building expresses a clear and honest expression of environment and circulation, function and materiality. It moves away from appliqué of any decoration.

Addressing the urban issue of scale and context, the built form has been split into 2 buildings with central open-air breezeways running through the development which for the central entry and main circulation, and brings the landscape through the building. Vertically the

Item 4

building form erodes further to respond to the ground plane, the surrounding contextual massing, and the backdrop of blue gum canopy trees.

The building has been designed to respond to the desired internal environments, with extensive use of sun shading devices such as vertical fins, deeply recessed balconies and operable shuttered screens, maintaining visual and acoustic privacy. This produces useable, breathable, controllable spaces. They allow the individual users to vary their spaces within from open to closed, light to dark, still to breezy, creating a living building, that changes with the seasons and the weather, allowing it to truly connect with it's surroundings.

Materials reflect a site sensitive yet contemporary and simple palette with largely clean and simple materials and colours. Specific buildings elements warm textured materials such as stone and timber, while interiors are clean, light and open.

The landscape design has been carefully crafted to continue the design intent from the internal to the external environment. Spaces have been designed to define the entrance and circulation, whilst still providing opportunities for private external living spaces. The street planting reinforces the design intent, providing a 'sea' of native plantings in which the buildings sit.

The deep soil planted garden space surrounds the building. Mature blue gum canopy trees have been maintained with the addition of extensive planting of new canopy species to contribute to the future of the particular character of this site. Ground level apartments open onto landscape terraces connecting directly with the surroundings.

The building responds directly to a most special site and context, and sets an example of contemporary, sensitive residential development.

Context:

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

The development is permissible and largely complies with the prescribed requirements of LEP194, including maximum height, site coverage, number of storeys and deep soil landscaping. The building setbacks to Kings Avenue and Maclaurin Parade are in accordance with the specific controls for the Nola Road Precinct.

The built form has been split into 2 connected buildings with control open-air breezeways running through the development which form the central entry and main circulation and brings the landscape through the building. The low density (FSR of 0.92:1) and the fact that the development is located within the existing developed area of the dwellings reduces adverse impacts on the surrounding properties.

Item 4

The natural environment, forming a major part of the context for this development, consists of extensive areas of high canopy trees, including blue gums, which are to be retained; creating a strong sense of the natural environment as a setting for the development.

The building design is responsive to the desired future character for this transitional precinct.

Scale:

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

Within the vicinity of the site there are a variety of building types comprising varying scales. The general character consists of one to two storey dwellings in nature in established gardens.

Given the slope of the land to the footprint of the building where the built form is contained and the appropriate scale and setbacks provided, the proposal represents a considered response to the scale identified for the desired future character of the area.

Built form:

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

The built form is acceptable in terms of its height and setbacks. Vertically, the building responds to the ground plane, the surrounding contextual massing and the backdrop of blue gum canopy trees. The proposal will have the appearance of approximately proportional buildings set in landscaped open space, due to a conservative density, a building that responds to its site and the substantial landscaping proposed.

Density:

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

The FSR of 0.92:1 is well below the DCP55 maximum of 1.3:1; representing a floor area of 1262m² less than the maximum permitted on the site by DCP55.

Resource, energy and water efficiency:

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

Item 4

The proposal is acceptable in this regard. The environmental design of the proposal complies with SEPP 65 and the Residential Flat Design Code guidelines. There is, however, a minor variation in respect of the minimum NatHERS thermal requirements in DCP 55 which is considered acceptable on balance.

Landscape:

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

The proposal provides for more than 50% of the site being in a deep soil zone which is compliant with the minimum requirement of 50%. The site is located within the special area known as the Nola Road Precinct, Roseville. The proposed planting philosophy (SBHF) and rehabilitation of the Blue Gum Creek, generally complies with the DCP's future character and design objectives and controls. The deep soil zone will be able to accommodate sufficient canopy trees to the satisfaction of Council's Landscape Development Officer.

Amenity:

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

The development provides for two and three bedroom dwellings, all of which attain a rating of 3.5 NatHERS stars or better. The units are all provided with good visual privacy, having good side and rear setbacks. Balconies to the units are orientated and positioned to the front and rear so as to minimise overlooking to adjoining properties.

The application provides good areas of private open space to each of the units. The balconies are generally greater than 16 m² for all units, with an average size of 29 m², exceeding the requirements of DCP 55 and the Residential Flat Design Code.

The proposal provides for acceptable levels of amenity to its future occupants and allows for reasonable levels of amenity to surrounding properties.

Safety and security:

'SEPP 65: Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising activity on the streets, providing clear, safe access parts, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.'

Item 4

There are no safety and security issues. The proposal provides for good levels of safety and security as the building design maximises surveillance of public and communal spaces whilst maintaining internal privacy. Direct access to the street is provided from the building to assist in activating the public domain to achieve a sense of ownership and security.

Social dimensions:

'SEPP 65: Good design responds to the social context and needs of the local community in terms of lifestyle, affordability and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood, or, in the case of precincts undergoing transition, provide for the desired future community.'

A reasonable mix of two and three bedroom apartments is provided to allow housing choice. The apartments are all of good sizes, ranging from 86 square metres to 166 square metres, and would provide high quality living environments for those residents within the local area who wish to "downsize" to an apartment.

Aesthetics:

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

The external appearance and composition of building elements, textures, materials and colours satisfactorily reflects the use, internal design and structure of the development. Specific building elements express warm textured materials such as stone and timber, while interiors are clean, light and open. These materials respond to the environment and contribute to the desired future character of the area.

Residential Flat Design Code

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

Relating to the local context:

The proposal, sited over four separate allotments, will require their consolidation. This amalgamation will result in a site of 3320m² which is capable of accommodating the proposed development.

The proposal has two building elements connected by the lift/lobby sharing two basement car parks. The development has an acceptable bulk and scale in relation to the desired future character of the area. The building envelope, in terms of building height, floor area, depth and setbacks, is satisfactory having regard to the desired future character of the locality.

Item 4

Site analysis:

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

In terms of site configuration, the proposal will ensure adequate areas for private and common open space and deep soil landscape areas.

The orientation of the development ensures adequate solar access to habitable areas and private open space, both internally and to adjoining residential development and it will also provide an appropriate frontage to Kings Avenue.

Building design:

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

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

State Environmental Planning Policy No.55 – Remediation of Land

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

Ku-ring-gai Planning Scheme Ordinance – LEP 194

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 1200 m ²	3320 m ²	YES
Deep landscaping (min): 50%	51%	YES
Street frontage (min): 30 m	67.82 m	YES
Number of storeys (max): 6	6 (4.6 and loft)	YES
Site coverage (max): 35%	33%	YES
Top floor area (max): 60% of level below	58.48% (Level 5)	YES
Storeys and ceiling height (max): 6 and 16.4 m	6 & 16.04 m	YES
Additional Storey: 25% of footprint	18.8%	YES

Item 4

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Car parking spaces (min):		
• 6 (visitors)	6	YES
• 31 (residents)	35	YES
• 37 (total)	41	YES
Manegeable housing (min): 3 (10%)	65% (15 units)	YES
Lift access: required if greater than three storeys	2 lifts proposed	YES

Number of storeys:

Clauses 25I(8) and 25K(a)(b) and (c) of LEP194 are the height controls. This proposal has an additional storey (Level 6) complying with Clause 25K(a) which allows up to 25% of the building footprint. Level 6 comprises 18.8% of the building footprint. The proposed satisfies Clause 25K(b) as the ceiling height of level 5 is below 16.4 metres.

Heritage/Conservation areas (d.25c(2)(e) and 61D-61I):

Neither the subject site nor adjacent properties are listed on the 'Register of the National Estate', nor are they subject to any conservation instrument under the provisions of the NSW Heritage Act 1977. The properties are not listed as heritage items nor located in a heritage conservation area identified under the provisions of the Ku-ring-gai Planning Scheme Ordinance. The site is located within a heritage conservation area identified by the National Trust of Australia (NSW), although such listing has no statutory provisions or requirements attached.

A condition is recommended requiring that recording of the existing buildings be undertaken prior to demolition (**Refer Condition No.63**).

Clause 25C(2)(e) and 61E of the Ku-ring-gai Planning Scheme Ordinance requires that development on land zone Residential 2(d3) has regard to its impact on any heritage items in the vicinity of that development.

The closest heritage listed property is located at No.1 MacLaurin Parade, approximately 110 metres to the north-east. The proposal will not result in any adverse impacts upon this property.

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

Item 4

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		
Development adjacent to a heritage item:	Structure no closer than 110 metres to any heritage item.	YES
Part 4.1 Landscape design:		
Deep soil landscaping (min) • 150m ² per 1000m ² of site area = 498 m ²	Min 730 m ² (located at rear and northern side)	YES
No. of tall trees required (min): 12 trees	Exceeds 12 trees	YES
Part 4.2 Density:		
Building footprint (max): • 35% of total site area	32.98 %	YES
Floor space ratio (max): • 1.3:1	0.92:1	YES
Part 4.3 Setbacks:		
Street boundary setback (min): • 10-12 metres (<40% of the zone occupied by building footprint)	10 - 12 m (38.6% of zone occupied by building footprint)	YES
Rear boundary setback (min): • 6m	11.7 m	YES
Side boundary setback (min): • 6m	6.0 m	YES
Setback of ground floor courtyards to street boundary (min): • 8m/11m	10 m	YES
% of total area of front setback occupied by private courtyards (max): • 15%	4.6 %	YES

Item 4

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 4.4 Built form and articulation:		
Façade articulation:		
• Wall plane depth >600mm	>600mm	YES
• Wall plane area <81m ²	122 m ²	NO
Built form:		
• Building width < 36m	53.6m	NO
• Balcony projection < 1.2m	1.2m	YES
Part 4.5 Residential amenity		
Solar access:		
• >70% of units receive 3+ hours direct sunlight in winter solstice	83 %	YES
• >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice	70 %	YES
• <15% of the total units are single aspect with a western orientation	17.3 %	NO
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4		
• 12m b/w habitable rooms	12 m (7 Kings Avenue)	YES
• 9m b/w habitable and non-habitable rooms	No direct relationship	YES
• 6m b/w non-habitable rooms	No direct relationship	YES
5th Storey		
• 18m b/w habitable rooms	23.4 m (1 Nola Road)	YES
• 13m b/w habitable and non-habitable rooms	22.9 m (1 Nola Road)	YES
• 9m b/w non-habitable rooms	No direct relationship	YES

Item 4

COMPLIANCE TABLE		
Development control	Proposed	Complies
Internal amenity: <ul style="list-style-type: none"> Habitable rooms have a minimum floor to ceiling height of 2.7m Non-habitable rooms have a minimum floor to ceiling height of 2.4m 1-2 bedroom units have a minimum plan dimension of 3m in all bedroom 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms Single corridors: <ul style="list-style-type: none"> - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies 	2.7 m 2.7 m >3m >3m 3 units 1.5m >1.8m and 1.8m at Basement level 2	YES YES YES YES YES YES YES
Outdoor living: <ul style="list-style-type: none"> ground floor apartments have a terrace or private courtyard greater than 25m² in area Balcony sizes: <ul style="list-style-type: none"> - 12m² – 2 bedroom unit - 15m² – 3 bedroom unit NB. At least one space >10m ² <ul style="list-style-type: none"> primary outdoor space has a minimum dimension of 2.4m 	<25m ² Minimum 16.64 m ² Minimum 16.6 m ² >2.4m or <2.4m 9 units, 2.0m; 14 units >2.4	NO YES YES NO
Part 4.7 Social dimensions:		
Visitable units (min): <ul style="list-style-type: none"> 70% 	65 %	NO
Housing mix: <ul style="list-style-type: none"> Mix of sizes and types 	15 x 2 bed and 8 x 3 bedroom units	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency: <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation 	70 %	YES

Item 4

COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> single aspect units are to have a maximum depth of 10m 	>10m	YES
<ul style="list-style-type: none"> 25% of kitchens are to have an external wall for natural ventilation and light 	>25%	YES
<ul style="list-style-type: none"> >90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating 	4.5 star rating = 30% 3.5 star rating = 70%	NO YES
Part 5 Parking and vehicular access:		
Car parking (min): <ul style="list-style-type: none"> 31 resident spaces 6 visitor spaces 37 total spaces 	41 spaces 6 spaces 41 spaces	YES YES YES

Part 4.4 Built form and articulation:

Whilst the east-facing expanse of framed glass louvres to the eastern lobby façade is 122 m², 41m² greater than the provision of DCP 55. The glass façade is effectively “internal” to the building being 11 metres inside of the building’s eastern face and its visibility to external view will be restricted by its limited width of 7 metres. The glass façade is set back approximately 24 metres from the site’s eastern boundary and well screened by both existing and proposed landscaping. Therefore, the glass façade will not have a significant adverse impact upon the soft landscape feature of the development and is acceptable in the circumstances.

Whilst the total width of the proposed development is 53.6 metres, it comprises Building A – 20.5 metres, Building B – 25.1 metres and the connecting lobby, 8 metres in width and 17 metres in depth. The two building elements are presented as separate buildings and satisfy the design controls of DCP55.

Part 4.5 Residential amenity**Solar access:**

DCP55 provides that not more than 15% of the total units proposed shall be single aspect with a western orientation. The proposal has 17.3% or 4 units with a single aspect with a western orientation, and represents 0.55 of a unit in excess of the control. Given that the western facades have sun protection in the form of sliding screens located externally, the additional 2.3% of unit as balance is considered acceptable.

Item 4

Outdoor living:

Whilst three of the ground floor apartments have a terrace less than 25m² in area, that is, unit 1.01, 20m²; unit 3.03, 22 m² and unit 3.05, 15m², the respective units have a minimum depth of 2 metres and satisfy the objectives of the Residential Flat Design Code. On this basis, the open space provided is therefore acceptable.

Part 4.7 Social Dimension

Visitable units:

Whilst 65% of units are visitable, rather than the 70% as prescribed by DCP 55, the development promotes accessibility and adaptability by ensuring that the number of accessible and visitable units are optimised as recommended by the Residential Flat Design Code. The 65% of visitable units is only a minor shortfall and is acceptable.

Part 4.8 Resource, energy and water efficiency

Energy efficiency:

DCP55 requires 90% of units to have a NatHERS rating of 4.5 stars. The environmental performance of the development is acceptable considering the east-west orientation of the site and the constraints created by the blue gum creek and existing large canopy trees located at the rear of the site. The proposal has achieved a climatic responsive outcome by stepping the building and by limited building depth. All units achieve a rating of 3.5 stars with 30% having a rating of 4.5 stars. Given that all of the apartments are provided with at least 3 hours of sunlight and that the majority will have at least two aspects with good cross ventilation, the NatHERS non-compliance is acceptable.

Specific controls for nominated areas: Part 7.1 (Nola Road Precinct)

Desired future character and design objectives:

The proposal provides for 50.7% of the site being for deep soil zone which is primarily common property provided to the rear (east side) and side (northern) of the development where its ability to accommodate large canopy trees will not be restricted. All of the existing significant trees are to be retained, while the type of landscaping proposed is consistent with the desired future character of the area, which seeks continuation of the indigenous Blue Gum Forest to soften the buildings and contribute to the streetscape.

The development incorporates a natural palette of materials and colours, including sandstone and timber that is consistent with that of surrounding buildings and responds sensitively to the natural environment.

The proposed development, due to its proposed planting philosophy (SBHF) and rehabilitation of Blue Gum Creek, generally complies with the DCP's future character and design objectives.

Item 4

Lot amalgamation:

The preferred lot amalgamation of properties 9 to 15 Kings Avenue has been achieved as per the pattern suggested in figure 17 of DCP 55.

Built form:

The articulation of the built form responds to the immediate urban context by breaking the building into smaller forms, thereby increasing the integration of the building and landscape. The building footprint has been placed to follow the existing house footprints, respect significant trees, step down the slope to the north and set back from Blue Gum Creek. Due to the nature of the site gradient the building will present as 4 to 6 storeys to the Kings Avenue frontage.

The majority of apartments are shallow in depth, with wide frontages and achieve good cross ventilation and dual access to light.

The balconies are located and detailed to be a continuous extension of living spaces. The design and framing of balconies contributes to the overall architectural form of the building. Large cantilevers in the roof provide shelter to the top apartments as well as creating shadow line or cornice around the top of the building. The use of a shallow pitched roof provides for a modern building appearance as promoted within the Residential Flat Design Code. The use of colour and texture highlight and promote an attractive residential environment.

Building articulation:

The proposal integrates into its landscape setting and is contextually responsive to the natural characteristics of the locality.

The built form has been split into 2 buildings with central open-air breezeways running through the development. Vertically, the building responds to the ground plane, the surrounding contextual massing and the background of blue gum trees.

The development is articulated in its design with extensive use of sun shading devices such as vertical fins, recessed balconies and operable shutter screens, maintaining visual and acoustic privacy.

The building is defined from bottom to top by the use of stone in the lower section with panelised cladding to the middle sections and the greater use of glass and aluminium at the upper portion. The materials used are simple and clean and are sensitive to the site. Specific areas of the building elements express warm textured material such as stone and timber.

Blue Gum Creek

The proposed development due to its proposed planting philosophy (SBHF) and rehabilitation of Blue Gum Creek, generally complies with the DCP's future character and design objectives. An

Item 4

exception is that the landscape works includes a retaining wall, within 15 metres of the centre line of the piped watercourse. The location of the retaining wall is acceptable as its location allows for the reinstatement of the SBHF plant community, particularly as the creek has been piped in that locality.

Development Control Plan 31 – Access

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

Development Control Plan 40 – Construction and Demolition Waste Management

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

Development Control Plan No.43 – Car Parking

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

Development Control Plan No.47 – Water Management

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

Section 94 Plan

The development attracts a Section 94 contribution of \$432,201.07, which is required to be paid by **Condition No.79**.

Likely Impacts

All likely impacts have been assessed elsewhere in this report.

Suitability of the Site

The site is suitable for the proposed development.

Any Submissions

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

Conditions No 15, 30, 52, 60, 64, 84, 102 and 103 have been imposed so as to address the concerns of objectors.

Item 4

Public Interest

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

Any other Relevant Matters Considerations Not Already Addressed

There are no other matters for discussion.

CONCLUSION

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

RECOMMENDATION

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

THAT the Council, as the consent authority, grant development consent to DA 1285/04 for the demolition of existing structures and the construction of a residential flat building comprising 23 units including basement parking on land at 9-15 Kings Avenue, Roseville, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

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

Dwg No.	Rev.	Description	Author	Dated	Lodged
A-002	A	Photo Montage	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-003	A	Entry Perspective	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-101	A	Location Plan	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-102	A	Survey Plan	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-103	A	Site Analysis	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-104	A	Existing Building Use	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-105	A	Existing Circulation	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-106	A	Existing Open Space	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-107	A	Opportunities analysis	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-108	C	Building Edges	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-109	C	Landscape Response	Fitzpatrick & Partners	26 November 2004	18 July 2005
A-110	B	Building Performance	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-111	C	Deep Soil Planting	Fitzpatrick & Partners	26 November 2004	18 July 2005

Item 4

A-112	B	Access & Parking	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-113	D	Landscape Area & Site Cover	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-114	B	Sun Diagrams – equinox	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-115	C	Sun Diagrams – June	Fitzpatrick & Partners	8 July 2005	18 July 2005
SK24	A	Level 1 Basement	Fitzpatrick & Partners	17 August 2005	18 August 2005
SK25	A	Level 2 Basement	Fitzpatrick & Partners	17 August 2005	18 August 2005
SK26	A	Level 3 Entry	Fitzpatrick & Partners	17 August 2005	18 August 2005
A-204	C	Level 4	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-205	C	Level 5	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-206	C	Level 6	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-207	D	Level 7	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-208	C	Level 8	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-209	C	Roof	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-301	A	West Elevation Montage	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-302	C	West Elevation	Fitzpatrick & Partners	26 November 2004	18 July 2005
A-303	E	East Elevation	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-304	C	North Elevation	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-305	C	South Elevation	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-401	D	Section A-A	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-501	A	Detailed Entry Plan	Fitzpatrick & Partners	19 October 2004	18 July 2005
SK03	J	Landscape Plan	McGregor & Partners	December 2004	22 April 2005
SK06	A	Section B-B	Fitzpatrick & Partners	14 July 2005	18 July 2005
SK07	A	Section C-C	Fitzpatrick & Partners	14 July 2005	18 July 2005
SK08	B	Diagrammatic Section 1	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK09	B	Diagrammatic Section 2	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK10	B	Diagrammatic Section 3	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK27	A	Detail Section 5	Fitzpatrick & Partners	17 August 2005	18 August 2005
SK12	B	Area Diagram L5	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK13	B	Area Diagram L6	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK14	B	Area Diagram L7	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK15	B	Area Diagram L8	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK16	A	Typical Accessible Plan	Fitzpatrick & Partners	14 July 2005	18 July 2005
SK17	B	Front Boundary Setback Level 1 Basement	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK18	B	Front Boundary Setback Level 2 Basement	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK19	B	Front Boundary Setback Level 3 Entry	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK20	B	Front Boundary Setback Level 4	Fitzpatrick & Partners	5 July 2005	18 July 2005

Item 4

2. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to Council's stormwater pipe in Maclaurin Parade via the approved site stormwater management system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
3. A mandatory rainwater re-use tank system of minimum volume 69m³ as shown in Patterson Britton & Partners Stormwater Management Plan, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. DCP47 is available in hard copy at Council and on the Council website. A mains top-up shall be provided for periods of low rainfall.
4. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
5. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
6. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
7. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
8. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary

Item 4

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.

9. 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”.
10. 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.
11. 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.
12. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
13. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
14. A convex mirror is to be provided on the bend at the entry to the lower level carpark.
15. The works are to be carried out in accordance with the recommendations given in Douglas Partners Report 37412, dated October 2004, and subsequent geotechnical reports, including regular inspections during excavation works and geotechnical review of structural drawings and details.
16. 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 4

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.

17. Landscape works shall be carried out in accordance with Landscape Drawing No 01 Rev L, & 03 Rev B prepared by McGregor Partners and dated April 2005 submitted with the Development Application, except as amended by the following:
 - The provision of substantial planting in the 6m wide deep soil area located on the southern side of the building.
 - The removal of the sun deck, seating area and associated decking in order to achieve the 1682 square metres of deep soil landscaping. The area being soft landscaped similar to the adjoining areas.
18. REMOVAL of the existing tree/s from Council's nature strip in front of the development site in Kings Ave shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.
19. 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.
20. 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:

Tree/Location

#02 *Angophora costata* (Sydney Redgum)
Adjacent to the north east site corner

#06 *Eucalyptus pilularis* (Blackbutt)
Centrally located in rear garden

#08 *Eucalyptus saligna* (Bluegum)
Centrally located in rear garden

#11 *Syncarpia glomulifera* (Turpentine)
Adjacent to southern site boundary on the Kings Ave nature strip

21. 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

Item 4

agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

22. 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
#02 <i>Angophora costata</i> (Sydney Redgum) Adjacent to the north east site corner	5.0m
#04 <i>Eucalyptus paniculata</i> (Grey Ironbark) Adjacent to north eastern/rear site boundary	3.0m
#05 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to north eastern/rear site boundary	4.0m
#06 <i>Eucalyptus pilularis</i> (Blackbutt) Centrally located in rear setback	5.0m
#08 <i>Eucalyptus saligna</i> (Bluegum) Centrally located in rear garden	4.5m
#11 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to southern site boundary on the Kings Ave nature strip	3.0m

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

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

Tree/Location	Radius From Trunk
#08 <i>Eucalyptus saligna</i> (Bluegum) Centrally located in rear garden	8.0m
#11 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to southern site boundary on the Kings Ave nature strip	6.0m

Item 4

24. 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.

25. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Kings Ave. The trees are to be planted as a formal evenly spaced avenue planting. The tree/s used shall be 25 litre container size specimen/s grown from progeny stock.

Tree Species

Eucalyptus saligna (Bluegum) x 6

26. Following removal of the existing trees from Council's Kings Ave nature strip in front of the development site, the nature strip shall be rehabilitated to the satisfaction of Council's Director Open Space at no cost to Council.
27. 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.
28. 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)
Cinnamomum camphora (Camphor laurel)
Cotoneaster sp. (Cotoneaster)
Erythrina sp. (Coral Trees)
Hedychium gardnerianum (Ginger lily)
Hedera helix (English Ivy)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)
Lonicera japonica (Honeysuckle)
Nephrolepis cordifolia (Fishbone fern)
Tradescantia albiflora (Wandering Jew)
Zantedeschia aethiopica (Arum Lily)

29. The applicant is advised that Energy Australia advise that an electrical substation is to be established on the premises and an area to satisfy Energy Australia's conditions for a kiosk type substation or arrange for the construction of a building type substation that may be more appropriate.

Item 4

30. The spill from any lighting is to be maintained within the site in accordance with AS 4282-1997 : Control of obtrusive effects of outdoor lighting.
31. Drying areas being provided on balconies or a discreet drying area being provided in the communal landscaped area.
32. "Peep holes" shall be provided to enhance all units for personal safety.
33. 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.
34. 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.
35. 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.
36. 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.
37. **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.
38. 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.
39. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.

Item 4

40. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
41. 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.
42. 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.

43. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
44. 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.

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

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

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

46. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Item 4

47. If the work involved in the erection or demolition of a building:
- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

48. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
49. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
50. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
51. 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.
52. 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.
53. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
54. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.

Item 4

- 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.
55. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
56. 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.
57. 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.
58. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
59. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
60. 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.
61. 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.

Item 4

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.
62. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
 63. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
 64. Noise emission from the mechanical ventilation system including fan units is not to exceed the background noise level when measures at the nearest property boundary.

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

65. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing four lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. The condition is imposed to ensure a continuous structure will not be placed across separate titles.
66. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossings between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.** The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

Item 4

67. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
68. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater retention/detention system. The storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. The design may be generally in accordance with the stormwater management plan Figure 2 prepared by Patterson Britton, advanced as necessary for construction issue purposes.
69. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, carwashing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use shall be shown on this design to a detail suitable for installation by the plumbing contractor. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
70. A dedicated carwashing area is to be shown on the Construction Certificate plans. The waste collection vehicle manoeuvring area or a visitor parking bay may be used for this facility. The plans are to be approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
71. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47. New connection points to the public drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004.
72. **Prior** to the issue of a Construction Certificate the applicant shall lodge a **\$50,000** (fifty thousand dollars) public infrastructure damage bond with Council. This bond is to cover the

Item 4

restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b) The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- c) Works in the public road associated with the development are to an unacceptable quality.

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

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

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

74. A cash bond/bank guarantee of \$18 000.00 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

#01 Jacaranda mimosifolia (Jacaranda) \$1 000.00
Adjacent to the south eastern site corner

Item 4

#02 Angophora costata (Sydney Redgum) \$2 000.00
Adjacent to the north east site corner

#03 Eucalyptus saligna (Bluegum) \$2 000.00
Adjacent to north eastern/rear site boundary

#04 Eucalyptus paniculata (Grey Ironbark) \$1 000.00
Adjacent to north eastern/rear site boundary

#05 Eucalyptus pilularis (Blackbutt) \$2 000.00
Adjacent to north eastern/rear site boundary

#06 Eucalyptus pilularis (Blackbutt) \$2 000.00
Centrally located in rear setback

#08 Eucalyptus saligna (Bluegum) \$4 000.00
Centrally located in rear garden

#11 Syncarpia glomulifera (Turpentine) \$2 000.00
Adjacent to southern site boundary on the Kings Ave nature strip

#12 Eucalyptus saligna (Bluegum) \$2 000.00
Adjacent to western site corner on Kings Ave nature strip

75. 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.

76. 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).

Item 4

77. 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.
78. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
79. 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 NINETEEN (19) ADDITIONAL DWELLINGS IS CURRENTLY \$432,201.07. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1. Community Facilities	\$1,117.76
2. Park Acquisition and Embellishment Works - Roseville	\$6,384.75
3. Sportsgrounds Works	\$1,318.32

Item 4

4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

80. The decks to units 3.03, 4.03, 5.03, 6.01 and 7.01 being in accordance with drawings SK21, SK22 and SK23 so that they are not less than 4.5 metres from the centre of the trunk of tree number 8. The basement carpark being set back from the southern site boundary in accordance with drawings SK24A, SK25A, SK26A and SK27A. Details to be included with the Construction Certificate plans.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

81. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
82. 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.
83. Prior to the commencement of any works on site the applicant shall submit **to Council** a full dilapidation report on the visible (including photos) and structural condition of MacLaurin Parade, Corona Avenue and Kings Avenue including full road width, kerb and gutter, and the intersection. The report must be completed by a consulting structural/civil engineer. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council. Other Council roads in the area are not available for construction traffic apart from vehicles less than 3.0 tonne gross unless written approval is received from Council and a dilapidation report has been completed on the roads.
84. Prior to the commencement of any works on site and prior to issue of the Construction Certificate, the applicant shall submit to the Principal Certifying Authority (PCA) and Council a full dilapidation report on the visible and structural condition of the existing structure at 7 Kings Avenue.

Item 4

The report must be completed by a consulting structural/geotechnical engineer. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

85. Prior to the commencement of any excavation works on site, the applicant must submit to the Principal Certifying Authority the results of the excavation trials and vibration monitoring as recommended in section 6.2 of Douglas Partners Report 37412, dated October 2004. This is to ensure that vibration created by the method of construction does not adversely impact on the surrounding properties and infrastructure. A qualified and practising geotechnical engineer must oversee the excavation trials and all associated investigations. Excavation is to proceed in accordance with the recommendations of the geotechnical engineer.
86. Prior to the commencement of any works on site the applicant must submit, for review by Council Engineers, a **construction site layout plan**. This is to entail a plan view of the entire site and frontage roadways indicating scale locations for:
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and vehicles in the frontage roadway,
 - All traffic is to use Maclaurin Parade and Kings Avenue. No site traffic is to enter or leave via Corona Avenue.
 - Turning areas within the site for construction vehicles, allowing a forward egress for all construction vehicles on the site,
 - The locations of proposed Work Zones in Kings Avenue,
 - Warning signs in Maclaurin Parade of siteworks ahead;
 - A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
 - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - The provision of an on-site parking for employees, tradesperson and construction vehicles

The construction site layout plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained and submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. The traffic management measures contained in the approved plan shall be implemented in accordance with the above plans prior to the commencement of any works on-site including excavation.

87. Prior to the commencement of any works on site, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install a 'Work Zone' along the Kings Avenue frontage of the site. Further, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed and the adopted fee paid prior to commencement of any

Item 4

works on the site. Where such a 'Work Zone' is not considered to be feasible by Council Traffic Engineers, the zone will not be required. This condition is to facilitate a dedicated on-street parking area for construction related vehicles during work hours. A need for a 'Work Zone' arises given the scale of the works, existing on-street parking restrictions around the site and the existing high demand for on-street parking in this location.

88. Prior to the commencement of any works on site, the Applicant must liaise with Council's Urban Forest Officer to arrange for the vegetation between the northern driveway entrance and Maclaurin Parade to be trimmed to provide a clear line of sight for vehicles manoeuvring into and out of the site.
89. 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
#01 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to the south eastern site corner	5.0m
#03 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to north eastern/rear site boundary	8.0m
#05 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to north eastern/rear site boundary	6.0m
#06 <i>Eucalyptus pilularis</i> (Blackbutt) Centrally located in rear setback	5.0m
#11 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to southern site boundary on the Kings Ave nature strip	3.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site corner on Kings Ave nature strip	6.0m
#13 <i>Angophora costata</i> (Sydney Redgum) Adjacent to western site corner within Council's road reserve	6.0m
#18 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the northern site boundary	6.0m

Item 4

90. To preserve the ongoing health and vigour of tree #2 *Angophora costata* (Sydney Redgum) located adjacent to the eastern site boundary, protection fencing will require two stages. The first stage is to construct a 1.8m fence at a 2.8m metre distance from the base of the tree along the edge of the pool line and to a 9.0m radius in both directions, encompassing tree #2 and the Jacaranda #1 on the high side. Once the fence has been constructed, demolition of the swimming pool can proceed ensuring that the tree receives ample protection during the demolition of the pool.

Stage 2 protection requires fencing to a 6.0m radius on the trees northern side encompassing the preservation of the Jacaranda to the east of the tree. The fill left at the base of the tree as a consequence of the pools construction should be removed and the soil level reinstated to close to original grade. This is to be done under the direct supervision of the site Arborist to ensure roots are not exposed during the removal of the waste fill.

91. 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 boardwalk shall be fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site:

Tree/Location	Radius From Trunk
#08 <i>Eucalyptus saligna</i> (Bluegum) Centrally located in rear garden	4.0m

92. 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.
93. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

94. 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.
95. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:

Item 4

- a) Completion of the new driveway crossings in accordance with levels and specifications issued by Council.
- b) Reconstruction/ repair as necessary of the concrete footpath over the entire site frontage of Kings Avenue.
- c) Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
- d) Full repair and resealing of any road surface damaged during construction.
- e) Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles, crane use) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

- 96. 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 retention/detention facilities (including all ancillary reticulation plumbing) on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88B instruments for protection of on-site retention/detention facilities (DCP47 appendix 14) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate.
- 97. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
 - a) A copy of the approved Construction Certificate stormwater retention/detention design for the site, and
 - b) A copy of the works-as-executed drawing of the as-built on-site retention/detention 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/retention systems, and also applies if the Principal Certifying Authority (PCA) is not the Council.

- 98. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).

Item 4

99. Prior to issue of an Occupation Certificate a certification and a works-as-executed (WAE) plan, in relation to the installed rainwater retention/detention devices, are to be submitted to the Principal Certifying Authority (PCA). Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The Certificate is to specifically state compliance with each of the relevant controls set out in appendix 6.2 of Council Water Management Development Control Plan 47. The Works-as-Executed drawing(s) is to be marked up in red on the approved Construction Certificate design, and shall include:

- As constructed levels in comparison to design levels
- As built location of all tanks/retention devices on the property and distances to adjacent boundaries, buildings and easements
- Dimensions of all retention tanks/devices
- Top water levels of storage areas and RL's at overflow point(s).
- Storage volume(s) provided and supporting calculations/documentation.

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

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

100. Prior to issue of an Occupation Certificate the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:
- a) Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
 - b) The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500.3.2, and
 - 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.

Item 4

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

- a. As built reduced surface and invert levels for all drainage pits and connection points.
 - b. As built reduced level(s) at the approved point of discharge to the public drainage system.
 - c. Gradients of drainage lines, materials and dimensions.
101. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” and the parking layout plans approved for the Construction Certificate.
102. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition full dilapidation report on the visible and structural condition of the existing structure at 7 Kings Avenue.
- The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.
103. Prior to issue of the Occupation Certificate the applicant shall submit **to Council** a follow up dilapidation report on the visible (including photos) and structural condition of Maclaurin Parade, Corona Avenue and Kings Avenue including full road width, kerb and gutter, and the intersection. The report must be completed by a consulting structural/civil engineer. The structural conditions of all structures originally assessed prior to the commencement of works, must be assessed and the results submitted to Council.
104. 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
105. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.

Item 4

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

BUILDING CONDITIONS

107. 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.
108. 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.
109. 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.
110. 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 |

Item 4

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.

111. 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.

112. 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. A Compliance Certificate from a suitably qualified person that the Residential Flat Building complies with the relevant deemed to satisfy provisions of the Building Code of Australia.
 - f. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.
 - g. A Registered Surveyor's Report on completion of footings but before external walls are above floor level verifying compliance with this consent.
 - h. A Registered Surveyor's Report confirming approved levels of the ground floor.
 - i. A Registered Surveyor's Report confirming approved levels of the first floor.
 - j. Registered Surveyor's Report confirming that the 'height' of the building (as defined in the Ku-ring-gai Planning Scheme Ordinance 1971) does not exceed 8.0 metres.
 - k. A registered surveyors report confirming the deep soil landscaped area is no less than 50% of the site area (as defined in the Ku-ring-gai Planning Scheme Ordinance.
113. The reflectivity index (expressed as a percentage of the reflected light falling upon any surface) of external glazing for windows or walls of the proposed development is to be no greater than 20%. Written confirmation of the reflectivity index of materials is to be submitted with the Construction Certificate.

Item 4

G Bolton
Executive Assessment Officer

R Kinninmont
Team Leader
Assessment Team - South

M Prendergast
Manager
Development & Regulation

M Miocic
Director
Development & Regulation

Attachments:

- Site Location Plan - 526785**
- Site Analysis - 526787**
- Site Plan - 526796**
- Section Plans - 526805**
- Elevation Plans - 526807**
- Roof Plan - 526816**
- Shadow Diagrams - 526863**
- Zoning Extract – 526865**
- Confidential - Landscape Plan showing floor plans**
- Confidential Floor Plans**

10A AULUBA ROAD, SOUTH TURRAMURRA - LEASE RENEWAL

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To consider the renewal of the lease to KU Children's Services for the occupation of the premises located at 10A Auluba Road, South Turramurra.

BACKGROUND:

KU Children's Services, formally the Kindergarten Union of NSW have operated the South Turramurra Kindergarten from the premises since 1964, with their current lease expiring on 2 November 2005.

COMMENTS:

KU Children's Services have indicated to Council that they wish to renew their lease at 10A Auluba Avenue, South Turramurra. They meet Council's leasing requirements and have met their obligation as a tenant.

RECOMMENDATION:

That a lease be granted to KU Children's Services for a period of 5 years in the terms and conditions as outlined in this report.

PURPOSE OF REPORT

To consider the renewal of the lease to KU Children's Services for the occupation of the premises located at 10A Auluba Road, South Turramurra.

BACKGROUND

Council is the owner of Lot 1 DP 222070, that is zoned Recreation existing 6 (a) and classified as Community Land.

On 2 April 1985 Council resolved to grant a 20 year lease to the Kindergarten Union of New South Wales Inc. to operate the South Turramurra Kindergarten from the premises located at 10A Auluba Road, South Turramurra. This agreement expires on 2 November 2005.

The Kindergarten provides education and care for 25 children per day with 49 families enrolled. The waiting list for 2006 is already in excess of 90 places, with the highest demand for placements being for 4 year old children. These figures reflect the high demand for this service in the area.

COMMENTS

KU Children's Services has advised Council that they wish to continue to operate the South Turramurra Kindergarten. During the period of their tenancy they have met their responsibilities as a tenant and have complied with the conditions of Council's Policy for Leasing Council Property to Community Organisations.

They meet Council's lease requirements by:

- Being an incorporated "not for profit" organisation
- Having a commitment to providing and supporting a range of education and care services for children in the area.
- Providing a pre-school centre for the community, a service that has been identified as being in high demand.

It is recommended that a lease be entered into using Council's standard leasing conditions to KU Children's Services as follows:

Lessee:	KU Children's Services
Lessor:	Ku-ring-gai Council
Term:	5 years
Commencement Date:	3 November 2005
Rent:	\$2,250pa exclusive of GST
Rent Review:	Annual CPI
Outgoings:	Lessee
Maintenance:	As per schedule
Legal Costs:	50% Lessee, 50% Lessor

CONSULTATION

KU Children's Services have advised Council that they wish to renew their lease and have agreed to the proposed terms and conditions of the new agreement.

FINANCIAL CONSIDERATIONS

A market rental valuation was carried out on 16 April 2005 from an independent valuer, the State Valuation Office, who determined the rental for the premises at \$22,500pa exclusive of GST.

The current rental being paid by KU Children's Services is \$1,430pa inclusive of GST, and is reflective of a 90% rental rebate offered by Council.

A rental figure of \$2,250pa exclusive of GST will be applicable, and includes a CPI adjustment from the time of valuation, which brings it in line with the current market. This figure is reflective of a 90% rental rebate offered to community organisations.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

KU Children's Services have indicated to Council that they wish to enter into a new lease agreement for the premises at 10A Auluba Road, South Turramurra and are willing to accept the terms of the new agreement as outlined in this report.

The South Turramurra Kindergarten has been in operation since 1961 and provides a valuable service to the community. KU Children's Services have effectively operated the Centre from 1964 and meet the conditions of Council's Policy for Leasing Council Property to Community Organisations and during their occupancy have met their obligations as tenants.

RECOMMENDATION

- A. That a lease be granted to KU Children's Services for a period of 5 years in the terms and conditions as outlined in this report.
- B. That this approval is subject to the conditions under section 47A of the Local Government Act 1993 and that Council issue a public notice as prescribed by the Act.
- C. That the Mayor and General Manager be authorised to execute all necessary lease documents.
- D. That the Council Seal be affixed to the Lease Agreement.

Stephen Plumb
Community Facilities Coordinator

Janice Bevan
Director Community Services

INVESTMENT CASH FLOW AND LOAN LIABILITY AS AT 30 SEPTEMBER 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

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

BACKGROUND:

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 12 December 2004 (Minute No.480).

COMMENTS:

The Reserve Bank of Australia (RBA) left the official cash rate unchanged at 5.50% during September.

RECOMMENDATION:

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

PURPOSE OF REPORT

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

BACKGROUND

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 12 December 2004 (Minute No. 480).

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

COMMENTS

During the month of September Council had a cash inflow of \$450,000 and gross capital appreciation on Council's investments was \$160,900.

Council's total investment portfolio at the end of September 2005 is \$32,127,300. This compares to an opening balance of \$18,539,000 as at 1 July 2005.

Council's General Fund interest on investments for September year to date is \$388,700. This compares favourably to the year to date budget of \$251,250.

Council's total debt as at 31 September 2005 is \$11,295,900. There were no debt repayments during the month of September.

PERFORMANCE MEASUREMENT

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

- **Management of General Fund Bank Balance**

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

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

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

- **Allocation of Surplus Funds**

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

Item 7

S02722
5 October 2005

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

▪ **Summary of Borrowings**

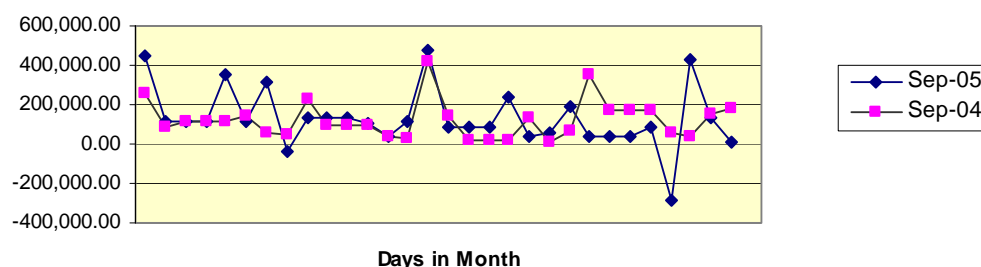
This is a summary of Council's borrowings. It lists each of Council's loans, original amounts borrowed, principal repayments made, outstanding balances, interest rates and maturity dates.

September 2005

Management of General Fund Bank Balance

During September, Council had an inflow of funds of \$450,000. There were no substantial movements during the month.

Management of General Fund Bank Balance



Funds Performance against the UBS Bank Bill Index

The weighted average return for the total portfolio of managed funds during September was 6.36% compared to the benchmark of the UBS Bank Bill Index of 5.69%.

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

Fund Manager	Terms	Opening Balance	Cash flow Movement	Income Earned (net of fees)	Closing Balance	Interest Rate
BT Institutional Managed Cash	At Call	\$1,633,701	(\$150,000)	\$8,394	\$1,492,095	5.74%
Deutsche Income Fund	At Call	\$9,425,656		\$45,223	\$9,470,880	6.77%
Macquarie Income Plus Fund	At Call	\$8,616,271	\$600,000	\$46,741	\$9,263,013	6.70%
Perpetual Credit Income Fund	At Call	\$9,018,502		\$42,844	\$9,061,345	6.23%
Turramurra Community Bank	Term Deposit	\$500,000		\$2,358	\$500,000	5.66%
CBA Loan Offset No 1	Offset	\$1,040,000		\$4,889	\$1,040,000	5.72%
CBA Loan Offset No 2	Offset	\$1,300,000		\$6,112	\$1,300,000	5.72%
TOTALS		\$31,534,130	\$450,000	\$156,561	\$32,127,333	

Year to-date Funds Performance against the UBS Bank Bill Index

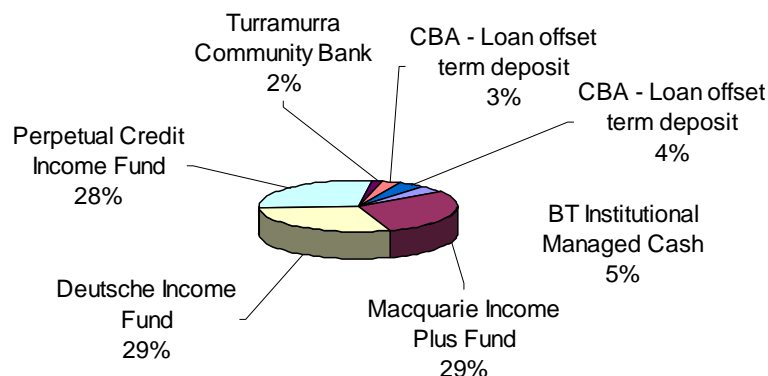
The following table provides a year-to-date analysis of each fund's performance against the industry benchmark.

Fund Manager	Performance Annualised for September 2005	UBS Bank Bill Index Annualised for September 2005
BT Institutional Managed Cash	5.79%	5.76%
Deutsche Income Fund	6.83%	
Macquarie Income Plus Fund	6.61%	
Perpetual Credit Income Fund	6.53%	
Turramurra Community Bank	5.66%	
CBA Offset No.1	5.72%	
CBA Offset No.2	5.72%	

Allocation of Investment Funds:

Council's funds during September were allocated as follows:

Portfolio Allocation of Investment Funds



2004/2005 versus 2005/2006

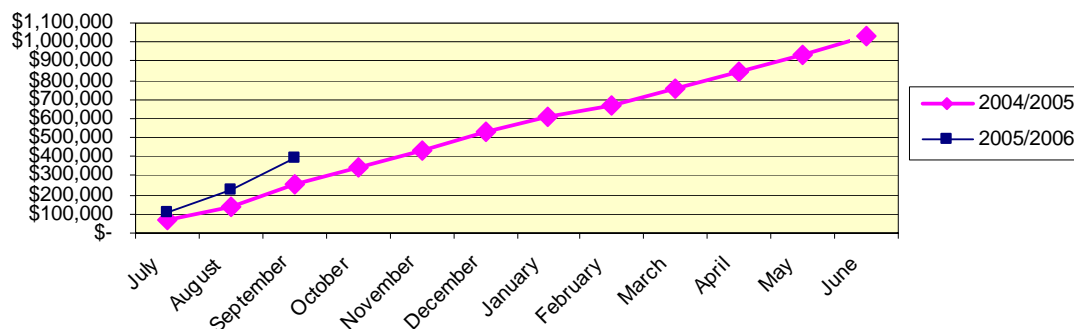
Accumulative Interest

The following graph compares the interest earned on an accumulative monthly basis for financial years 2004/2005 and 2005/2006. At the end of September, year to date interest earnings totalled \$388,700. This compares to \$251,500 at the same time last year, an increase of \$137,200.

Item 7

S02722
5 October 2005

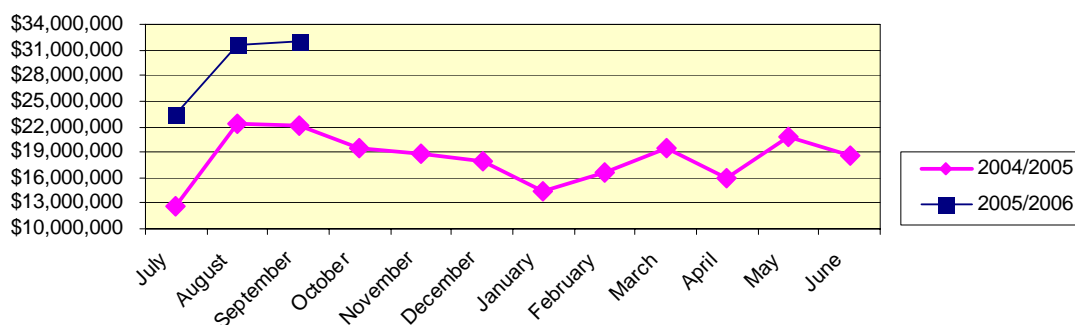
Accumulative Interest 2004/2005 v's 2005/2006



Total Investment Portfolio

The following graph tracks the monthly investment portfolio balances for 2005/2006 in comparison to 2004/2005.

Total Investment Portfolio 2004/2005 v's 2005/2006



During September 2005 Council's investment portfolio increased by \$450,000. In comparison, during September 2004 Council's investments decreased by \$400,000. This is primarily due to the timing of the first rate instalment.

Council's closing investment portfolio of \$32,127,300 in September 2005 is \$10,050,800 higher than the September 2004 closing balance of \$22,076,500.

Item 7

S02722
5 October 2005

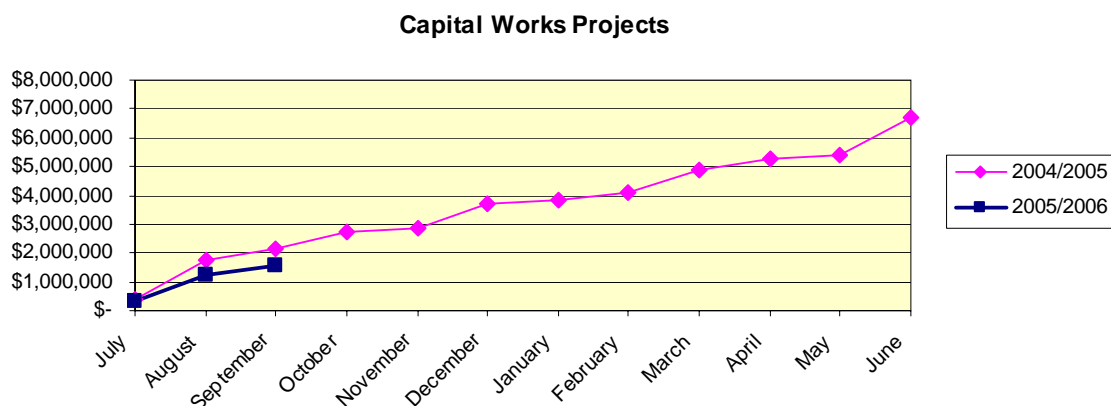
Capital Works Projects

As at the end of September 2005 Council had a net expenditure of \$1,543,400 on capital works, which is \$581,600 lower then at the same time last year when \$2,125,000 had been expended.

During September 2005 Council expended \$268,700 on capital works, which compares to \$697,600 during September 2004, a decrease of \$428,900.

Council's 2005/2006 total budget for capital works (excluding fleet replacement) is \$10,572,300, which leaves funds of \$9,028,900 unexpended at the end of September.

The following graph compares the accumulative monthly expenditure totals for capital works for financial years 2004/2005 and 2005/2006. It should be noted that the above analysis of capital works is net of income and is only relevant as it relates to the effect on Council's cash flow. Gross expenditure on capital works will be reported separately as part of quarterly financial review and reporting.



Portfolio Performance Average Return 2004/2005 versus 2005/2006

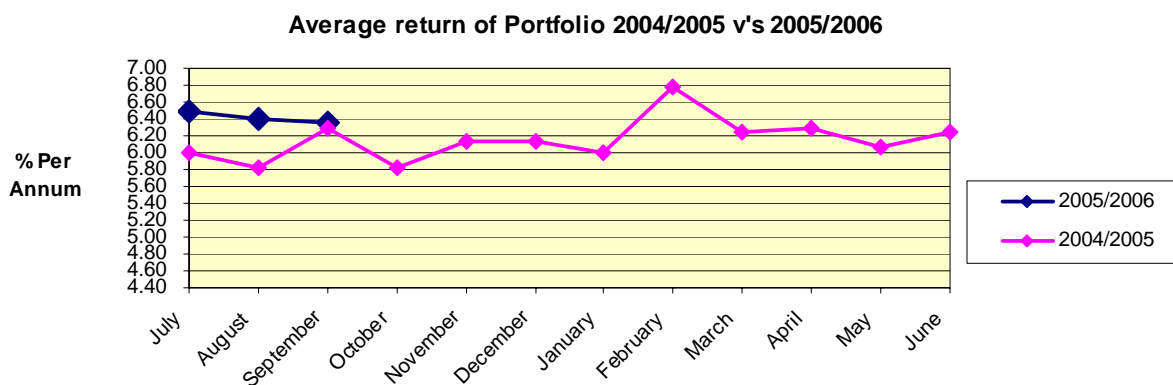
The following graph compares the monthly returns on Council's portfolio for the financial years 2004/2005 and 2005/2006.

In September 2005 earnings before fees were 6.36%, this compares to 6.30% in September 2004.

For the period July 2005 – September 2005 Councils average earnings before fees were 6.41%. This compares to 6.05% for the same period last financial year.

Item 7

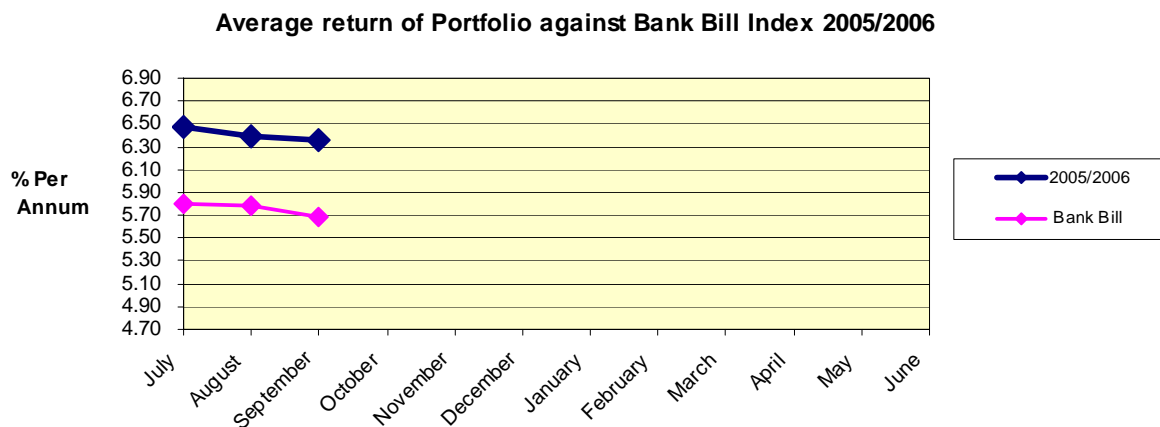
S02722
5 October 2005



2005/2006 Portfolio Performance against the UBS Bank Bill Index

Council's average portfolio performance (6.36%) performed above the UBS Bank Bill Index (5.69%) in September.

Returns above benchmark have been achieved in each of the three months this financial year. The average return of portfolio against Bank Bill is displayed in the following graph.



Summary of Borrowings

There were no loan repayments made in September, leaving total debt at \$11,295,900.

Lender	Loan Number	Original Principal	Principal Repayments	Balance Outstanding	Interest Rate	Draw Down Date	Maturity Date
Westpac	127	\$1,000,000	\$632,423	\$367,577	6.32%	29-Jun-98	29-Jun-08
CBA Offset No 1	128	\$2,600,000	\$1,560,000	\$1,040,000	5.87%	29-Jun-99	13-Jun-09
CBA Offset No 2	129	\$2,600,000	\$1,300,000	\$1,300,000	5.87%	13-Jun-00	14-Jun-10
CBA	130	\$2,600,000	\$851,338	\$1,748,662	6.32%	26-Jun-01	28-Jun-11
NAB	131	\$2,600,000	\$605,123	\$1,994,877	6.85%	27-Jun-02	27-Jun-12
Westpac	132	\$1,882,000	\$303,556	\$1,578,444	5.16%	27-Jun-03	27-Jun-13
CBA	133	\$1,800,000	\$133,690	\$1,666,310	6.36%	23-Jun-04	23-Jun-14
Westpac	134	\$1,600,000		\$1,600,000	6.05%	29-Jun-05	30-Jun-15
TOTAL		\$21,682,000	\$10,386,100	\$11,295,900			

CONSULTATION

Not applicable

FINANCIAL CONSIDERATIONS

The Reserve Bank of Australia (RBA) left the official cash rate unchanged at 5.50% during September.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

As at 31 September 2005:

- Council's total investment portfolio is \$32,127,300. This compares to an opening balance of \$18,539,000 as at 1 July 2005, an increase of \$13,588,300.
- Council's General Fund interest on investments totals \$388,700. This compares favourably to the year to date budget of \$251,250.
- Council's total debt stands at \$11,295,900.

RECOMMENDATION

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

John McKee
Director Finance and Business

DRAFT LOCAL ENVIRONMENTAL PLAN NO 33 (HERITAGE CONSERVATION) 23 MEMORIAL AVENUE, ST IVES AND 4 MUNDERAH STREET, WAHROONGA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider Draft (Heritage Conservation) Local Environmental Plan No 33 - 23 Memorial Avenue, St and 4 Munderah Street, Wahroonga (DLEP33) following exhibition.
BACKGROUND:	On 18 July 2005 Council resolved to prepare a Local Environmental Plan to remove the properties at 23 Memorial Avenue, St Ives and 4 Munderah Avenue, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planing Scheme Ordinance (KPSO). DLEP 33 was then placed on public exhibition from 26 August to 3 October 2005.
COMMENTS:	The purpose of this report is to review DLEP 33 for the proposed removal of the two properties from Schedule 7 of the KPSO at the end of the exhibition period. No submissions were received from the general public and one submission was made by the NSW Heritage Office who raised no objection to DLEP 33.
RECOMMENDATION:	That Council adopt draft Local Environmental Plan No 33 (Heritage Conservation) - 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with a request that the Plan be made.

PURPOSE OF REPORT

For Council to consider Draft (Heritage Conservation) Local Environmental Plan No 33 - 23 Memorial Avenue, St and 4 Munderah Street, Wahroonga (DLEP33) following exhibition.

BACKGROUND

23 Memorial Avenue, St Ives

23 Memorial Avenue is located on the corner of Memorial Avenue and Killeaton Street, St Ives and is identified as Lot 2 of DP 654552. The 1987 Ku-ring-gai Heritage Study identified the property known as "Lynden Cottage" as being of significance for its historic, social, architectural and rarity value.

In 1998 a fire destroyed Lynden Cottage the remains of which were consequently removed from the property. Since 1998 a number of trees occupying the site have been damaged by storms and removed. Today the property consists of lawn where the cottage was previously located prior to the 1998 fire, the only obvious remains of the former built structure are a garage (possibly 1940s) and a fence.

4 Munderah Street, Wahroonga

Since its inclusion in Schedule 7 (Heritage Items) of the KPSO, the land at 4 Munderah Street, Wahroonga has been subdivided twice and with this has lost some of its historic value. In 2003 a development application was lodged proposing the demolition of the heritage listed property at 4 Munderah Street. In August 2004, the Officer assessing the development application recommended approval for the demolition. The matter went before Council on 27 July 2004, Council resolved:

That Development Application No.1699/03 for demolition of the existing building and associated structures at 4 Munderah Street Wahroonga, being Lot 61, DP 819554, be approved for a period of two years from the date of the notice of Determination...

The demolition of the property will remove any heritage significance that the property once illustrated.

On 18 July 2005 a report (**Attachment 1**) went to Council recommending that a Local Environmental Plan be prepared to remove the properties at 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO). At this meeting Council resolved:

- A. *That Council prepare a Draft Local Environmental Plan to remove No. 23 Memorial Avenue, St Ives and No. 4 Munderah Street from Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.*

Item 8

S04422
17 October 2005

- B. *That the Department of Infrastructure, Planning and Natural Resources be advised of Council's decision in accordance with Section 54 of the Environmental Planning and Assessment Act.*
- C. *That the Draft LEP be publicly exhibited in accordance with the requirements of the EP & A Act.*
- D. *That a report be brought back to Council at the end of the exhibition period.*

The Draft Plan was placed on public exhibition and received written submissions from 26 August 2005 to 3 October 2005.

COMMENTS

The purpose of this report is to review DLEP 33 for the proposed removal of the two properties from Schedule 7 of the KPSO at the end of the exhibition period.

Consultation

Notification under Section 54 of the Environmental Planning and Assessment Act 1974 (EP&A Act) was made to the Department of Planning and Section 62 notification to the NSW Heritage Office on 8 August 2005. In a letter received from the Heritage Office on 16 September 2005 (**Attachment 2**), it was stated that the Heritage Office raises no objection to the provisions of the draft plan on the basis that the draft plan proposes to remove two heritage listed items from Schedule 7 Heritage Items) of the KPSO because one of the items has been destroyed by fire and the other has been approved for demolition following the required consultation with the Heritage Council.

Draft Local Environmental Plan (Heritage Conservation) No. 33 (**Attachment 3**) was placed on formal public exhibition at the Customer Service Centre and Council's libraries and Council's website from 26 August 2005 to 3 October 2005. Affected property owners were also notified in writing of the exhibition of the Draft Plan and were invited to make submissions. No submissions were made during the exhibition period.

Public Submissions

Given that no submissions were received from the general public during the exhibition period and the Heritage Office raised no concerns in relation to draft LEP it is considered that there is no objection to DLEP 33 to remove 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 of the KPSO.

CONSULTATION

There has been consultation with the Department of Planning in accordance with Section 54 of the EP&A Act 1979. Consultation was undertaken with relevant authorities in accordance with Section 62 of the EP&A Act 1979, namely the NSW Heritage Office. No correspondence was received

from the Department of Planning in relation to DLEP 33, while the Heritage Office raised no objection to removing the two properties from Schedule 7 of the KPSO.

FINANCIAL CONSIDERATIONS

The preparation, exhibition and assessment of Draft Local Environmental Plan (Heritage Conservation) No.33 are covered by the Urban Planning budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has been undertaken with Council's Heritage Adviser in consideration of DLEP 33 and the proposal to remove the two subject properties from Schedule 7 of the KPSO. Council's Heritage Advisor has also reviewed the Assessments of significance prepared for 23 Memorial Avenue, St Ives and 4 Munderah Street Wahroonga.

SUMMARY

In 1998 a fire destroyed Lynden Cottage the remains of which were consequently removed from the property. Council received a request that it consider the removal of 23 Memorial Avenue, St Ives from Schedule 7 (Heritage Items) of the KPSO.

4 Munderah Street, Wahroonga was originally listed in Schedule 7 of the KPSO in 1989 as being of significance for its architectural value. In 2004 Council granted approval for the demolition of the existing building and associated structures at 4 Munderah Street, Wahroonga.

On 18 July 2005 a report went to Council recommending that a Local Environmental Plan (Heritage Conservation) be prepared to remove the properties at 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO). At this meeting Council resolved to prepare a Draft Local Environmental Plan to remove No. 23 Memorial Avenue, St Ives and No. 4 Munderah Street from Schedule 7 of the KPSO.

Notification under Section 54 of the EP&A Act was made to the Department of Planning and Section 62 notification to the NSW Heritage Office on 8 August 2005. In a letter received from the Heritage Office on 16 September 2005, it was stated that the Heritage Office raises no objection to the provisions of the draft plan

Draft LEP No. 33 was publicly exhibited. No submissions were received during the exhibition period therefore it is considered that there is no objection to DLEP 33 to remove 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the KPSO.

It is recommended that Council adopt draft LEP (Heritage Conservation) No.33 and submit it to the Minister for approval and gazettal.

RECOMMENDATION

- A. That Council adopts Draft (Heritage conservation) Local Environmental Plan No 33 – 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga and submit the draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with request that he makes the Plan.
- B. That Council notifies the NSW Heritage Office informing them of Council's decision.
- C. That Council notifies all affected residents of its decision.

Louise O'Flynn
Heritage Planner

Antony Fabbro
Manager
Urban Planning

Steven Head
Director
Open Space and Planning

Attachments: **1 - Copy of Officer's report dated 18 July 2005 - 516872 & Attachments - 516874**
 2 - Copy of NSW Heritage Office letter - 534554
 3 - Copy of DLEP 33 and Map - 549015 & 549017

CONSIDERATION OF VARIOUS HERITAGE MATTERS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider the removal of 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO) and that Council retain 2 Wirra Close, St Ives in Schedule 7 (Heritage Items) of the KPSO.

BACKGROUND:

In 1998 fire destroyed the heritage listed cottage at 23 Memorial Avenue, St Ives and the owners have requested that the property be removed from Schedule 7 (Heritage Items) of the KPSO. In 2004 Council resolved to grant consent to the Development Application for demolition of the existing building and structures at 4 Munderah Street, Wahroonga. In 2003 Council received an application to have 2 Wirra Close, St Ives removed from Schedule 7 of the KPSO. Council engaged Glen Cowell Heritage Services to conduct an assessment of significance for the property to determine whether the presently listed heritage item should remain listed under Schedule 7 of the KPSO.

COMMENTS:

23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga should be removed from Schedule 7 of the KPSO and 2 Wirra Close, St Ives retains the heritage values that originally warranted its individual listing on Schedule 7 of the KPSO and should remain a heritage list.

RECOMMENDATION:

That Council prepares an amending draft Local Environmental Plan to remove the properties 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance and that 2 Wirra Close, St Ives remains listed as a property of heritage significance in Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance.

Item 2

P51789 P53370 P63399
18 July 2005

PURPOSE OF REPORT

For Council to consider the removal of 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO) and that Council retain 2 Wirra Close, St Ives in Schedule 7 (Heritage Items) of the KPSO.

BACKGROUND

Several heritage amendments have arisen that require action by Council. The subject properties are 23 Memorial Avenue St Ives, 4 Munderah Street, Wahroonga and 2 Wirra Close St Ives.

23 Memorial Avenue, St Ives

23 Memorial Avenue is located on the corner of Memorial Avenue and Killeaton Street, St Ives and is identified as Lot 2 of DP 654552. The 1987 Ku-ring-gai Heritage Study identified the property known as "Linden Cottage" as being of significance for its historic, social, architectural and rarity value.

In 1998 a fire destroyed Linden cottage the remains of which were consequently removed from the property. Since 1998 a number of trees occupying the site have been damaged by storms and removed. Today the property consists of lawn where the cottage was previously located prior to the 1998, the only obvious remains of the former built structures are a garage (possibly 1940s) and a fence (**ATTACHMENT 1**).

4 Munderah Street, Wahroonga

Since its inclusion in Schedule 7 (Heritage items) of the KPSO, the land at 4 Munderah Street, Wahroonga has been subdivided twice and with this has lost some of its historic value. In 2003 a development application was lodged proposing the demolition of the heritage listed property at 4 Munderah Street. In August 2004, the Officer assessing the development application recommended approval for the demolition. The matter went before Council on 27 July 2004 (**ATTACHMENT 2**) Council resolved:

That Development Application No.1699/03 for demolition of the existing building and associated structures at 4 Munderah Street Wahroonga, being Lot 61, DP 819554, be approved for a period of two years from the date of the Notice of Determination...

The demolition of the property will remove any heritage significance that the property once demonstrated.

2 Wirra close, St Ives

2 Wirra Close, St Ives is listed in Schedule 7 (Heritage items) of the KPSO has an item of local significance. On 20th April 2003 Council received an application made by NBR&P Heritage Consultants (**ATTACHMENT 3**) on behalf of the owner of No.2 Wirra close St Ives to have the property removed from Schedule 7 (Heritage items) of the KPSO. NBR&P stated the reason for

Item 2

P51789 P53370 P63399
18 July 2005

the application was that the property was not appropriately identified in the original Heritage Study and has subsequently been modified with Council consent. In response to the request, Council engaged Glen Cowell Heritage Services to conduct an independent assessment of the properties significance to determine whether or not the presently listed heritage item should remain listed under Schedule 7 of the KPSO. The assessment of heritage significance concludes that 2 Wirra Close to be of historical and aesthetic significance and of some technical/ research and social significance (**ATTACHMENTS 4 & 5**).

COMMENTS

23 Memorial Avenue, St Ives

On 5 March 2005, Council received a request from NBRSP Heritage Consultants on behalf of the Trustee of the owner of 23 Memorial Avenue, St Ives for Council to consider the removal of the property from Schedule 7 (Heritage items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO) and prepare the necessary amending Local Environmental Plan (LEP).

History of site

23 Memorial Avenue, St Ives was originally part of a land Grant made to John Ayres on 7 April 1836 of 320 acres and the site of an original orchard farmhouse. The property was identified as an item of heritage significance in 1978 and included in Schedule 7 (Heritage items) of the KPSO. The 1987 Ku-ring-gai Heritage Study identified "Linden Cottage" (23 Memorial Avenue) as being significant for its demonstrated historic, social, archaeological and rarity value as a remnant farmhouse. In the heritage statement undertaken by NBRSP Heritage Consultants (**ATTACHMENT 1**) it is noted:

The heritage values of the site were limited to historic associations and the evolution in demonstrating the early rural character of the area, its subsequent subdivision and the changing patterns of urban development. The building was a rare surviving example of an early orchard cottage in the Ku-ring-gai area, though it was typical of many such cottages throughout the State. The level of archaeological significance of the site is low due to the relocation of the house in the 1920s and the loss of all connection with other rural activity after the turn of the 20th Century.

In 1998 a fire destroyed 'Linden Cottage' leaving only minor remains of the building which have since been removed. Despite the presence of the inter-war garage, chicken yard, 1920s chain wire fence and some original vegetation on the site, NBRSP Heritage Consultants believe that 23 Memorial Avenue does not support the continued listing of the land in the absence of the cottage structure in Schedule 7 (Heritage items) of the KPSO.

Having reviewed the Consultants Heritage Statement (**ATTACHMENT 1**) for the site Council is of the opinion that 23 Memorial Avenue no longer displays the historic, social, archaeological and rarity value that had once warranted its listing in Schedule 7 of the KPSO. The property is no longer of 'heritage significance' as defined by the KPSO and should be removed from Schedule 7.

Item 2

P51789 P53370 P63399
18 July 2005**4 Munderah Street, Wahroonga**

4 Munderah Street was originally listed in Schedule 7 (Heritage Items) of the KPSO in 1989 as being of significance for its demonstrated architectural values. Given that Council granted approval for the demolition of the existing building and associated structures at 4 Munderah Street Wahroonga, being Lot 61, DP 819554, subject to conditions (refer to **ATTACHMENT 2**) in 2004 the property should be removed from the KPSO.

2 Wirra Close St Ives

Council has received a request from NBR&P Heritage Consultants on behalf of the owner of No 2 Wirra Close St Ives to have the property removed from Schedule 7 (Heritage items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO).

History of site

The site of 2 Wirra Close, St Ives was originally part of a 47 acre Crown Grant in 1877 and was later subdivided into 14 and 15 acre allotments in 1882. Lot 2 was purchased in 1949 and further subdivided into two allotments in 1951. Torokina Avenue was formed in this subdivision and a narrow 'Right of Way' was formed along the northern edge of the subject site to give access to the remained of the site to the east. In 1961 the land was divided into 16 allotments and Wirra Close was constructed. Today Lot 9 of this subdivision is known as No. 2 Wirra Close. In 1962 the subject property was purchased by William George Sherington, the owner of Ford Sherington Pty Ltd (a luggage company). In 1969 Torokina Avenue was extended to the east and the main Torokina Avenue Estate was subdivided with allotments surrounding a central reserve. At the time of this subdivision 2 Wirra Close was amalgamated into the new lot pattern with the addition of a small triangular section of land fronting Torokina Avenue thus the site became part of the Torokina Avenue Estate subdivision. The house itself was designed by Bruce Robertson in 1962.

The property was identified in the Ku-ring-gai Heritage Study 1987 as being part of the Torokina Avenue Group" which was identified as significant for its social, aesthetic and group value and potentially of State level significance. The Torokina Avenue Group is a distinctive collection of large mid to late 1960s houses of varying styles representing the taste of the emerging Nouveau riche middle class in St Ives in the boom years following Post War consolidation of the area. The subject site was built in 1962 with other homes built in Torokina Avenue in later years.

The subject site & buildings

The residence at 2 Wirra Close was originally designed in a style closely modelled on the "Prairie Style" of the American architect Frank Lloyd Wright. The site is described as Lot 2 in DP 543666 and is bounded on the north by a right of carriage way and an easement fronting Torokina Avenue, on the west by Wirra close and also on the South by Wirra Close which has a dog leg form. On the eastern site of the site, it is bounded by No.4 Wirra close. Located on the site is a single storey painted brick and timber house with an asbestos shingle roof, surrounding a paved courtyard and an in-ground swimming pool. The house was designed by Bruce Robertson of Robertson & Hindmarsh Architects. The plan is linear in form and creates an 'L' shape around a north east facing courtyard. The open side of the courtyard is screened by a timber pergola and screen wall.

Item 2

P51789 P53370 P63399
18 July 2005

The building layout of 2 Wirra Close closely resembles Wright's stylistic planning with an internal layout which turns its back on the street and addresses an interior courtyard through floor and ceiling glazed walls. The design of the residence attempted to integrate the house with nature. The design presents two long, low wings which reach out in opposite direction from the main pyramidal roofed pavilion which houses the living and dining areas. The style of the exterior facades resembles those of Wright's Prairie house design.

Application to remove property from Schedule 7 KPSO

An application has been made by NBR&P Heritage Consultants on behalf of the owner of No.2 Wirra close St Ives to have the property removed from Schedule 7 (Heritage items) of the KPSO. In the heritage Statement produced in support of the deletion of the heritage item by NBR&P Heritage Consultants (**ATTACHMENT 3**) it was stated that:

The existing place does not have significance for any value that would warrant its retention as a heritage item for the benefit of the Municipality of Ku-ring-gai...I would therefore strongly suggest that the item be removed from Schedule 7 of the KPSO by means of an amending LEP.

A meeting between Council staff and the owners was held to discuss their concerns. In response to the request to remove the property from Schedule 7 of the KPSO, Council engaged Glen Cowell Heritage Services to conduct an independent heritage assessment for the property to determine whether the presently listed heritage item should remain listed under Schedule 7 of the KPSO (**ATTACHMENTS 4 & 5**). The assessment like that conducted by NBR&P Heritage Consultants recognised that 2 Wirra Close is listed on Schedule 7 of the KPSO as an individual heritage item and that the subject property has some connection with the Torokina Avenue Estate Group however, even with this link "the Sherington House is obviously an individual item of significance which was designed and constructed well in advance of the building construction of the adjoining subdivision".

The assessment of significance found that:

The listing of 2 Wirra Close, as an interesting local interpretation of the style favoured by the America Architect, Frank Lloyd Wright, at the entrance to the Torokina Estate Group appears therefore, to be a very appropriate and local decision...'The Sherington House' along with Bruce Robertson's later commission at 29 Womerah Street Turramurra, are important examples of the architect's interpretation of Wright's 'Prairie Style' in Australia. These two houses in Ku-ring-gai municipality provide an insight into the philosophical as well as the economic direction of housing and the stylistic development of the Sydney architects of the mid nineteenth century leading up to the "Sydney School" of the 1960s. the two houses are important elements in understanding the residential development of the period.

The assessment of significance found 2 Wirra Close, St Ives to be of historical and aesthetic significance and of some technical/ research and social significance and recommended:

Item 2

P51789 P53370 P63399
18 July 2005

- “The Sherington House” should be retained as an item of significance within the suburb of St. Ives. The extant building should be retained largely in its original form and detail as a single storey dwelling addressing this corner of Wirra Close
- “The Sherington House” should be retained as a largely intact external example of a simple mid century suburban house strongly influenced by the Prairie Style made famous in the early 1900s by the North American Architect, Frank Lloyd Wright.
- “The Sherington House” should be retained as an isolated building on its original corner allotment with any modifications or upper floor additions restricted to the far (garage) end of the eastern wing of the extant house.
- “The Sherington House” should be retained as a significant landmark element in its own right.
- First floor additions may be possible in areas that will not have a negative impact on the overall character of the building and that consideration should be given to allowing alterations at the far eastern end of the garage wing. Consideration should be given to allowing an upper floor addition of sympathetic design and complementary fabric located over the existing garage pavilion and an additional wing to further enclose the courtyard.
- The quality of design and original fabric of the interior, particularly the large open plan living /dining area with high vaulted timber clad ceiling and the focus of the interior towards the internal courtyard, appears to have remained largely intact if modified. As it has been indicated in the NBR&P Report that the original timber ceiling is intact under the later plasterboard ceiling lining, reinstatement of this significant element would add greatly to the integrity and intactness of the building. A heritage assessment of the interior should be made prior to any decision on the type and extent of redevelopment that the building could sustain

Having reviewed the NBR&P Heritage Consultant Heritage Statement (**ATTACHMENT 3**) for the site in conjunction with the heritage assessment produced by Glen Cowell Heritage Services (**ATTACHMENTS 4 & 5**), 2 Wirra Close, St Ives still displays the heritage values that originally warranted its individual listing on Schedule 7 of the KPSO and should remain a heritage listed item.

CONSULTATION

Consultation with the relevant owners has taken place in preparing the supporting documents for this report. Any draft LEPs if exhibited would involve formal consultation.

FINANCIAL CONSIDERATIONS

All financial costs associated with the removal of the properties from the KPSO through an amending LEP are covered by the Urban Planning budget.

Item 2

P51789 P53370 P63399
18 July 2005**CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

There has been consultation with Council's Heritage Advisor in relation to each of the subject properties, in the preparation of this report.

SUMMARY

Several necessary heritage amendments have arisen that require action by Council. The subject properties are 23 Memorial Avenue, St Ives, 4 Munderah Street, Wahroonga and 2 Wirra close, St Ives.

Council has received a request that it consider the removal of 23 Memorial Avenue, St Ives from Schedule 7 (Heritage items) of the KPSO. Having reviewed the heritage assessment prepared by NBRS&P Heritage and having visited the property, the property no longer has heritage significance and should be removed from Schedule 7 of the KPSO.

4 Munderah Street was originally listed in Schedule 7 of the KPSO in 1989 as being of significance for its architectural value. In 2004 Council granted approval for the demolition of the existing building and associated structures at 4 Munderah Street Wahroonga and should be removed from Schedule 7 of the KPSO.

Council has received a request from NBRS&P Heritage Consultants on behalf of the owner of No 2 Wirra Close St Ives to have the property removed from Schedule 7 of the KPSO. Council engaged Glen Cowell Heritage Services to conduct an independent heritage assessment for the property to determine whether the presently listed heritage item should remain listed under Schedule 7 of the KPSO. The assessment of significance recommended that the property be retained as an item of significance within the suburb of St. Ives.

Having reviewed the NBRS&P Heritage Consultant Heritage Statement and the independent heritage assessment. The site still displays the heritage values that originally warranted its individual listing on Schedule 7 of the KPSO and should remain a heritage listed item.

RECOMMENDATION

- A. That Council prepare a Draft Local Environmental Plan to remove No. 23 Memorial Avenue, St Ives and No. 4 Munderah Street from Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.
- B. That the Department of Infrastructure, Planning and Natural Resources be advised of Council's decision in accordance with Section 54 of the Environmental Planning and Assessment Act.
- C. That the Draft LEP be publicly exhibited in accordance with the requirements of the EP & A Act.

Item 2

P51789 P53370 P63399
18 July 2005

- D. That a report be brought back to Council at the end of the exhibition period.
- E. That the property at No. 2 Wirra Close, St Ives remains listed as a property of Heritage Significance in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.

Louise O'Flynn
Heritage Planner

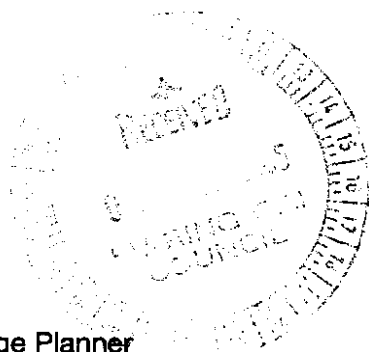
Antony Fabbro
Manager Urban Planning

Leta Webb
Director Planning &
Environment

Attachments:

- Attachment 1 - NBRS & P Heritage Consultants Assessments of Significance- 23 Memorial Avenue, St Ives**
- Attachment 2 - Resolution of Council - 27 July 2004, 4 Munderah Street, Wahroonga.**
- Attachment 3 - NBRS & P Heritage Consultants Assessment of Significance - 2 Wirra Close, St Ives.**
- Attachment 4 - Glen Cowell Heritage Services Assessment of Significance - 2 Wirra Close, St Ives.**
- Attachment 5 - Glen Cowell Heritage Services - 2 Wirra Close, St Ives - Heritage Inventory Statement.**

5th March 2005
 The General Manager
 Ku ring gai council
 818 Pacific Highway
 Gordon 2072



Attention Paul Dignam – Heritage Planner

RE: 23 MEMORIAL AVENUE ST IVES – HERITAGE STATUS

Dear Sir,

We write on behalf of the Trustee of the owner of 23 Memorial Avenue, St Ives, an item of Environmental Heritage in the Ku ring gai Heritage LEP, to have the site removed from the Schedule of heritage items because it no longer demonstrates any significant heritage values for the municipality.

We formally request that Council put in action any necessary procedures for the removal of the site from any Council heritage affectation through the making of an appropriate amending LEP. We understand that this process may take some time and is also dependent on approval from DPNR. The matter is of some urgency due to the circumstances of the owner and prompt action in this regard would be appreciated.

We understand that you already have some knowledge of the site and its condition following removal of the remnant building fabric following a fire in 1998. As the site no longer demonstrates the values for which it was originally identified we also seek from you an assurance that delisting by means of an amending LEP will be supported by the Council Officers and that no particular heritage constraints beyond those arising from the Relics provisions of the Heritage act would apply to the site. A letter to this effect would be satisfactory initially to allow the Trustee to settle the estate to the benefit of the owner who is under full time care.

To assist you in this regard we attach some preliminary research in regard to the ownership of the place and the history of its development etc. You will see that although the house was of some age it had been relocated to the present site in the 1920s'

Should you have any questions regarding this request please do not hesitate to contact me directly. Any official correspondence from Council should be addressed to Mr Ron McGarva, acting under irrevocable Power of attorney for Elizabeth Wood Clark Tracy, the owner of the site. Ron McGarva 9 Kanoona Avenue St Ives, NSW

Robert Staas,
 Director / Heritage Consultant.
 Noel Bell Ridley Smith & Partners Architects
 2 Mcmanus Street, McMahon's Point NSW 2060

Tel 99222344 Fax 99221308

23 MEMORIAL AVENUE ST IVES – LINDEN COTTAGE HERITAGE STATUS

DOCUMENTARY EVIDENCE

The site at 23 Memorial Avenue, St Ives is a residual block surviving from the 1915 subdivision of the surrounding site which contained a small 19th century cottage, Linden Cottage (Now Demolished) and a single mid 20th century fibro garage located on the corner of Memorial Avenue and Killeaton Street, St Ives.

The land was originally part of a Grant made to John Ayres on 7th April 1836 comprising 320 acres. The land came into the ownership of the prominent local landholder, John Brown, 'The Squire' and in 1855 was conveyed to a local orchardist, John Britton. The Britton family subdivided their land purchase and established their own orchards fronting present day Cowan Road south of the subject site. In 1866 lot 1 of the land to the north of Britton's Orchards, containing 10 acres was conveyed to James Jones, farmer of Lane Cove. This lot contained within it, the allowance for a future road which was to become the eastern extension of Killeaton Street.

James brought his land under the Real Property Act in 1872 and presumably worked the land in the latter decades of the 19th century. It is likely that the early cottage which one stood on the land was initially erected in the 1870s or 1880s by James Jones.

In 1902 Jones transferred the southern part of his land comprising just over 2 acres and containing the road alignment to George James, a storeman and the residual to William Frederick Leet. Leet purchased George James' portion and proceeded to re-subdivide his holding.

By 1911 the corner site that now contains the subject heritage site had been reduced in size to just over an acre. This was further reduced in 1914 when a resumption notice was issued for the road alignment. The road extension of Killeaton Street through to Pittwater Road (Mona Vale Road) was not made until the 1920.s.

The residual land fronting the new road alignment was subdivided and the corner lot fronting what is now Memorial Avenue was transferred in 1915 to Frederick Bedwin while the adjoining land fronting William Street was transferred in the same year into the ownership of his brother Hubert Bedwin. The brothers were married to sisters and had migrated to Australia from England in 1908 finally settling in the St Ives area where they found part time work and temporary accommodation.

Family sources indicate that after purchasing the land Fred and Rose Bedwin occupied the existing weatherboard cottage on the site. The couple had 8 children and Fred, though described as an orchardist, worked for many years as a gardener for the Percy Josephson family in Killara and also at their country property 'Boggabri'.

When Killeaton Street was finally extended through the site, The original house was moved back and reconstructed in an enlarged form in about 1920. Further additions were made to the building later in the century. It is unlikely that the small site area that resulted from these changes could have supported a working orchard and the house was a residential cottage with a semi rural garden and chook yard.

Fred and Rose Bedwin occupied the site until 1954 when Frederick died and it was sold by his widow in 1955.

Subsequent owners of the site included Stanley Blight a University Coach, 1955 – 64
 Earnest Eccleston Sheldon, Retired Merchant, 1964 -1970
 Betty Anne Robertson 1970

The Main Roads Department resumed part of the site for the widening of the road in 1970. The corner lot was eventually purchased in January 1974 by Elizabeth Wood Clark Tracy .the present owner.

The house was identified as an item of environmental heritage in 1978 but was destroyed by fire in 1998 and the site was cleared. Since that time a number of trees occupying the site have been damaged by storms and removed.

Because St Ives was a relatively isolated area up until the Second World War, little information on residents is available from the Sands Suburban Directories to confirm occupation of the site. The Bedwins are listed from 1916 up to 1933 the last year of the directory. Listings for William Leet do not coincide with the location of the current site, however, the land may have been leased during his ownership. No listings for James Jones in St Ives or Lane Cove are given. No historical record of the house name, 'Linden Cottage' exists in the directory.

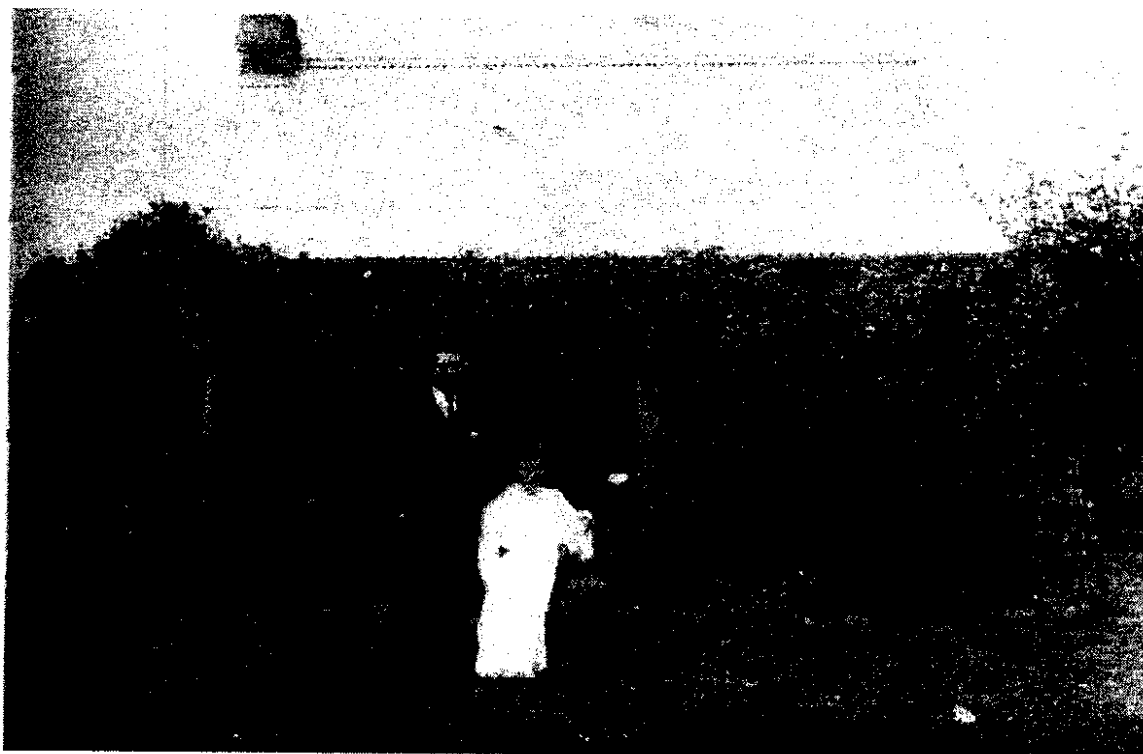
No further information relating to the site could be provided by the staff of Ku ring gai Library Local Studies Collection.

A detailed Title search is attached for reference.



'Linden Cottage' 1987 photograph from Ku ring gai Heritage Study

The original chimney had been removed and the front verandah extended around the western side of the cottage and enclosed to provide additional accommodation. The timber framed and chain wire fence dates from the 1920s reconstruction.



The Bedwin's cottage at Memorial Avenue St Ives prior to its relocation to allow for the construction of Killeaton Street east.



Sketch of the 'Linden' by Cynthia Hundleby c 1980 –The Story of St Ives

23 MEMORIAL AVENUE ST IVES – LINDEN COTTAGE HERITAGE STATUS

BIOGRAPHICAL NOTES

References

The Storey of St Ives – Gay Halstead 1982
Aldine Centennial History of NSW 1888 Vol.2
Ku ring gai Local Studlies, Library Gordon.

John Ayres

John Ayres arrived in Sydney from Tasmania in the 1820s. He became superintendent of the Government Gardens at Parramatta in 1827 and married Sarah Broadbear in 1832. In 1829 Ayres requested and was granted 320 acres of land north of D.D. Mathew's Cowan Creek sawmill. Despite confusion regarding the boundaries of the grant Ayres commenced working the site. He left the district in 1838 soon after receiving the deeds to his grant which he sold to John Brown, 'The Squire'

James Jones

James Jones and his wife arrived in Australia from Cheshire, England early in 1857 and obtained a grant of 40 acres at Pittwater. In the 1860s Jones moved to St Ives purchasing land near the corner of Killeaton Street and Cowan Creek Road (Collins Street) and built there a stone home with a shingled roof that he called 'Chester'. He established fruit orchards on his land. A staunch Methodist, Jones gave money for the establishment of the first Methodist Church in 1907 and he and his wife were buried at South Chatswood Methodist Church yard. There is no reference to the construction of a house on the subject land by James Jones though such a house may have been constructed and let to Orchard workers.

William Frederick Leet

No information regarding William Leet has been identified though it appears from the Sands Directory that he lived elsewhere in St Ives and not on the orchard purchased from Jones.

Frederick Bedwin 1887 - 1954

Frederick Bedwin came to Australia with his brother and their wives in 1908 having previously worked in the brickfields of Berkshire, England. In Sydney they settled in St Ives where they worked for A.E. sandy and in 1915 they purchased 10 acres including an old weatherboard house near the corner of what was to become Memorial Avenue. The land and house belonged to Fred Leek and cost the brothers 360 pounds. When Killeaton Street was put through the site in 1920, the house had to be moved across to its location prior to being burnt down.

The house was rebuilt by Sonny Gordon and then altered by Cecil Pierce's father who added a verandah and a brick chimney. The bricks were delivered by horse and wagon from St Leonards in 1924 at a cost of two pounds per thousand.. When the chimney was dismantled for further alterations, 'Snow' Bedwin used them to build part of his home in Caroola Road St Ives. The ceilings in the Bedwin home were said to be very low and this was typical of small timber cottages of the second half of the 19th century.

23 MEMORIAL AVENUE ST IVES
HERITAGE STATUS

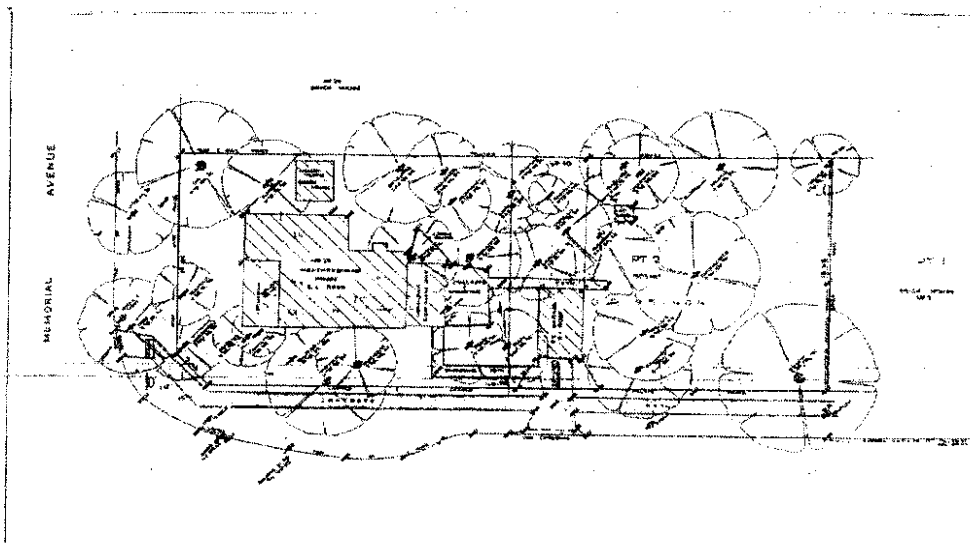
PHYSICAL EVIDENCE.

The site is located at the corner of Memorial Avenue and Killeaton Street St Ives and is identified as Lot 2 in DP 654552, Volume 11690, Folio 204. It represents a residual block subdivided from an early orchard of 10 acres established in the 1870s by James Jones and part of the original land Grant of 320 Acres made to John Ayres in 1836.

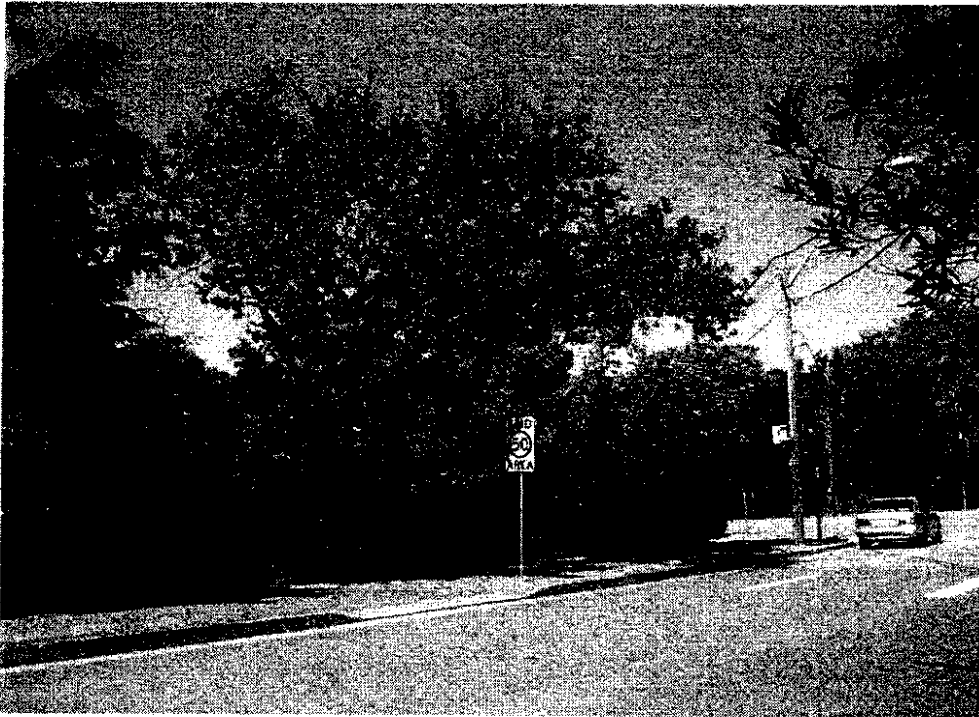
The former house was re-erected on the subject site in about 1920 when Killeaton Street was extended through the site. This required a substantial reconstruction and severed the early cottage from its original archaeological deposits. An inspection of the site indicates that there is minimal surviving evidence of the former cottage on the current site and that the archaeological potential of the site is low.

The house was originally fenced with post and wire fencing. Following its removal to the present site the house had a timber framed fence with chain wire panels.

The 1987 photograph indicates that an extension to the western side of the cottage had been constructed and that the brick chimney had been demolished.



Survey of the Subject site dated February 1994 showing the location of the cottage and garage. (Degotardi, Smith & Partners)



23 Memorial Avenue St Ives

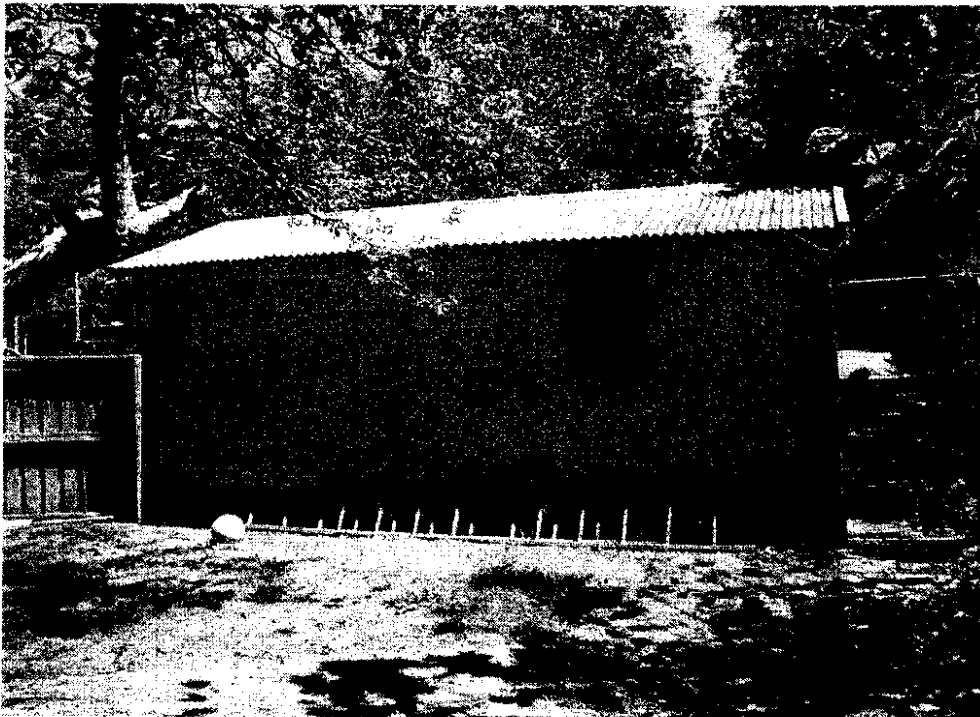
The site addresses the corner with Killeaton Street and is screened by overgrown perimeter vegetation. The large Oak tree is about 85 years old.



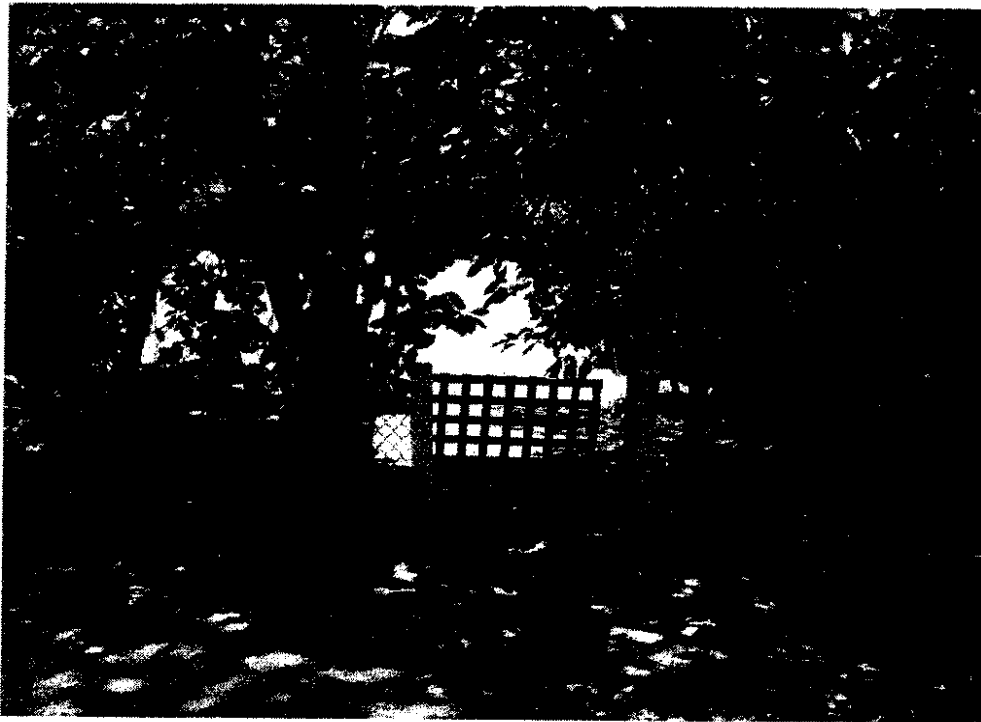
The view along Killeaton Street showing the typical early 20th century boundary planting and existing high fencing. The typical low timber and wire fence dates from the 1920s.



The site of the relocated cottage now a lawn. There are no obvious or substantial remains of the former structure. These were removed following the fire.



Inter War garage and chain wire fence separating yard from site of former house. The garage is in poor condition and has no intrinsic heritage value.



Position of original front entry gate in Memorial Avenue.



View of former house site and garage from Memorial Avenue.



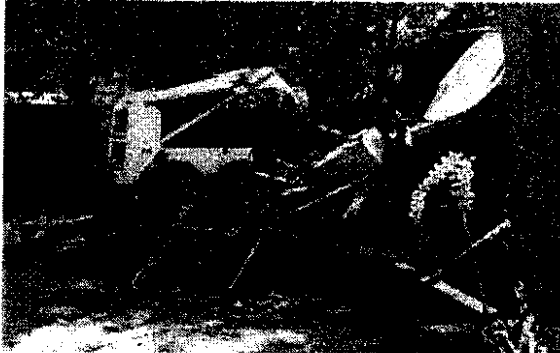
Surviving Mulberry Tree possibly associated with original cottage, located in chook yard beyond the surviving Garage. No other obvious 'orchard' evidence survives on the site.



View of garage from the site of the former cottage looking towards the Chook Yard.



Inter War & Post War stone paving in the front garden. None of this material relates to any significant historic period associated with the former cottage.



Photographs of the removal of debris following the fire.

23 MEMORIAL AVENUE ST IVES
HERITAGE STATUS

ASSESSMENT OF SIGNIFICANCE

The 1987 Ku ring gai Heritage Study identified 'Linden Cottage' as being significant for 'historic, social, archaeological, rarity value'. The house was described as being 'Altered or extended sympathetically'. The listing is inadequate in providing any reason why the house was identified in the first place. There are no historical notes and no statement of significance. While the building was a rare type when it was identified, it had no identified Social value and there was no evidence of any significant archaeological values associated with the site.

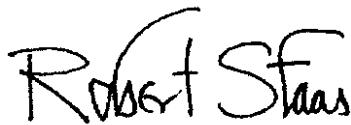
The more detailed preliminary assessment made in this application, indicates that the heritage values of the site were limited to historic associations and evolution in demonstrating the early rural character of the area, its subsequent subdivision and the changing patterns of urban development. The building was a rare surviving example of an early orchard cottage in the Ku ring gai area, though it was typical of many such cottages throughout the State. The level of archaeological significance of the site was low due to the relocation of the house in the 1920s and the loss of all connection with other rural activity after the turn of the 20th century.

All of the heritage significance has been removed by the destruction of the cottage in a fire and the surviving site does not warrant retention on the Heritage Inventory for any of the standard criteria.

Conclusion

The research carried out in regard to this site does not support the continued listing of the land in the absence of the cottage structure. The circumstances surrounding the relocation of the house in the 1920s, the reduction of the original orchard area and the lack of any evidence of significant archaeological deposits do not require special identification of the site which is otherwise unoccupied.

I am therefore of the professional opinion, that Council should prepare an amending LEP to remove the site from the Ku ring gai Heritage Schedules and permit appropriate redevelopment of the site without any further heritage constraints.



ROBERT STAAS
Director / Heritage Consultant
Noel Bell Ridley Smith & Partners Architects Pty Limited

23 MEMORIAL AVENUE ST IVES
HERITAGE STATUS

LAND TITLES INFORMATION

- | | |
|------|---|
| 1836 | CROWN GRANT dated 7 th April
To John Ayres of 320 acres |
| 1855 | Conveyance dated 20 th August
John Brown to John Britton |
| 1866 | Conveyance dated 24 th January
John Britton to James Jones |
| 1872 | PRIMARY APPLICATION No. 3157 dated 17 th May
James Jones of Lane Cove, farmer
Lot 1 of a subdivision by John Britton, containing 10 acres |
| 1872 | CERTIFICATE OF TITLE Vol 148 Folio 85 dated 11 th October
James Jones of Lane Cove, farmer, containing 10 acres 10 perches |
| 1902 | Transfer No. 358425 dated 5 th December
To William Frederick Leet of part |
| 1902 | Transfer No. 358426 dated 5 th December
To George James of part (to Vol 1455 folio 216) |
| 1906 | Transfer No. 444258 dated 2 nd October
To William Frederick Leet of part |
| 1903 | CERTIFICATE OF TITLE Vol 1455 Folio 216 dated 7 th March
George James of St Ives, storeman, containing 2 acres 3 rood 37¼ |
| 1902 | Mortgage |
| 1907 | Transfer No. 476374 dated 10 th October
To William Frederick Leet of St Ives, fruit grower |
| 1907 | Mortgage |
| 1912 | Transfer No. T589712 dated 1 st November
To Robert William Addison of part (to Vol 2130 folio 244)

Residue to Vol 2131 Folio 170 |
| 1911 | CERTIFICATE OF TITLE Vol 2131 Folio 170 dated 16 th March
William Frederick Leet of St Ives, fruit grower, containing 1 acre 2 rood 1½ perches. |
| 1915 | Resumption of land for public Road A 179764
Notice in Govt Gazette 25 th November 1914 |
| 1915 | Transfer No. A192701 dated 4 th August
To Frederick George Bedwin of St Ives, orchardist |

- 1915 Transfer No. A 199139 dated 2nd September
To Hubert Mathew Bedwin of part (to Vol 2652 Folio 146)
Residue to Vol 2652 Folio 177
- 1916 CERTIFICATE OF TITLE Vol 2652 Folio 177
Frederick George Bedwin of St Ives, orchardist, containing 2 rood 39½
perches
- 1924 Mortgage
- 1955 Application by Transmission G 305481 dated 3rd June
To Rose Bedwin of St Ives widow
- 1955 Transfer No. G402815 dated 10th October
To Stanley Indean Blight of St Ives, University Coach
- 1964 Section 94 Application No. J651686
To Vivienne Elaine Blight of St Ives, widow
- 1964 Transfer No. J 714729 dated 15th July
To Ernest Eccleston Sheldon of St Ives, retired merchant
- 1970 Section 93 Application No. M99791 dated 22nd December
To Betty Anne Robertson of Wahroonga, married women
- 1971 Transfer No. M292942 dated 23rd April
To the Commissioner for Main Roads of Lot 7 in DP 239387
- As to the whole ex-road this deed is cancelled and a new Certificate of
Title issued at Vol 11690 Folio 204 dated 19/10/71
- 1971 CERTIFICATE OF TITLE Vol 11690 Folio 204
Betty Anne Robertson of Wahroonga, married women of Lot 2 in DP
951404
- 1974 Transfer No. N684949 dated 18th January
To Elizabeth Wood Clark Tracy of St Ives, secretary
- 2005 Current owner Elizabeth Wood Clark Tracy
Current Trustee Ron McGarva acting under irrevocable Power of
Attorney for Elizabeth Tracy.
Current Title 2/654552

RESOLUTION OF ORDINARY MEETING OF COUNCIL

27 JULY 2004

359 4 Munderah Street, Wahroonga - Demolition Of Heritage Listed Property

File: DA1699/03

Ward: Comenarra

Applicant: Dr Susan O'Reilly

Owner: Dr. Susan O'Reilly

Determination of an application for the demolition of a heritage listed property.

Resolved:

(Moved: Councillors Andrew/Lane)

That Development Application No.1699/03 for demolition of the existing building and associated structures at 4 Munderah Street Wahroonga, being Lot 61, DP 819554, be approved for a period of two years from the date of the Notice of Determination, subject to the following conditions:

1. The demolition to be in accordance with Development Application No. 1699/03 lodged with Council on 22 December, 2003.
2. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
3. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
4. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
5. 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.
6. 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.

7. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
8. 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.
9. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
10. 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.
11. 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.
12. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
13. 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.
14. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.

15. Fire hoses are to be maintained on site during the course of demolition.
16. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
17. 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.
18. 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.
19. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
20. 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.
21. 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.
22. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
23. 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.
24. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.

CONDITIONS TO BE COMPLIED WITH PRIOR TO DEMOLITION WORK COMMENCING

25. 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.

26. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.

Note: Required if cost of works exceed \$25,000.00.

27. To preserve the following tree/s, no work shall commence until the trunk/s are protected by the placement of 2.0 metre lengths of 50 x 100mm hardwood timbers spaced at 150mm centres and secured by 2mm wire at 300mm spacings. The trunk protection shall be maintained intact until the completion of all work on site. Any damage to the tree/s shall be treated immediately by an experienced Horticulturist/Arborist, with minimum qualification of Horticulture Certificate or Tree Surgery Certificate and a report detailing the works carried out shall be submitted to the Principal Certifying Authority:

Tree/Location

Jacaranda mimosifolia (Jacaranda)

Close to the garage and the dwelling's south-eastern corner.

Magnolia grandiflora (Bull-bay Magnolia)

Adjacent to the driveway close to the dwelling's north-eastern corner.

28. 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.

29. Detailed archival recording of the heritage item is to be submitted to Council prior to the commencement of work for the approval of the heritage adviser. Recording shall be undertaken in accordance with the New South Wales Heritage council standards. Particular emphasis is to be placed on the boiler and this is to be recorded by an industrial archaeologist.

Information shall be bound in an A4 report format. It shall include copies of black and white photographs, referenced to plans of the affected property. Two (2) copies (one (1) copy to include negatives of photographs) shall be submitted to Council's Department of Environmental and Regulatory Services, to be held in the Local Studies Collection of Ku-ring-gai Library.

30. Prior to the commencement of any demolition work, the applicant is to submit an application to Council, accompanied by the appropriate fee, to remove the heritage listing of No 4 Munderah Street, Wahroonga by way of an amendment to the Ku-ring-gai Planning Scheme Ordinance.

*For the Resolution: The Mayor, Councillor A Ryan, Councillors
Andrew, Ebbeck, Innes, Hall, Lane, Malicki*

Against the Resolution: Councillors Bennett and Shelley



STATEMENT IN SUPPORT OF DELETION OF A HERITAGE ITEM
LISTED IN SCHEDULE 7 of KU RING GAI PLANNING SCHEME ORDINANCE

No. 2 WIRRA CLOSE ST. IVES

This Statement has been prepared to accompany an application by the owner of No. 2 Wirra Close for the deletion of that property from the Heritage Schedule of the Ku ring gai Planning Scheme Ordinance on the grounds that the building is not part of the Torokina Avenue Group and does not demonstrate any particular significant heritage values that would warrant its protection as a heritage item within the Ku ring gai Municipality.

The building was identified in the Ku Ring Gai Heritage Study 1978 by Sheridan Bourke, acting as part of the consultant team undertaking the study, as being part of the Torokina Avenue Group which she identified for social, aesthetic and group value at potentially State level of significance. As with many other listings arising from the 1987 Heritage Study of Ku ring gai, no detailed information was provided with the identification, no Statement of Significance was provided and no evaluation of the potential or actual significance of the place was undertaken. The group of houses in Torokina Avenue is said to represent the Local Heritage Theme of Urban Consolidation.

The Torokina Avenue Group is a distinctive group of large mid to late 1960's houses of varying eclectic styles representing the taste of the emerging Nouveau riche middle class in St Ives in the boom years following Post War consolidation of the area. Apperly Irving et al, in their 'Pictorial Guide' describe the styles used in this area as 'Post War American Colonial' and 'Late 20th Century Australian Nostalgic'. While the general character of housing in this part of St Ives is largely characterised by revivalist styles based largely on American examples, the Torokina Avenue group also includes a large reproduction of Old Government House, Parramatta as well as a number of modernist fantasies and some vaguely Spanish Mission designs. The original listing of the group as having potential State heritage significance is highly questionable while the actual value of the group as anything but a social document of the period is also problematic. Despite their size, the buildings generally have low aesthetic values and no social value in the terms generally understood under the inclusion / exclusion guidelines of the NSW Heritage Manual. They do however form a distinctive group.

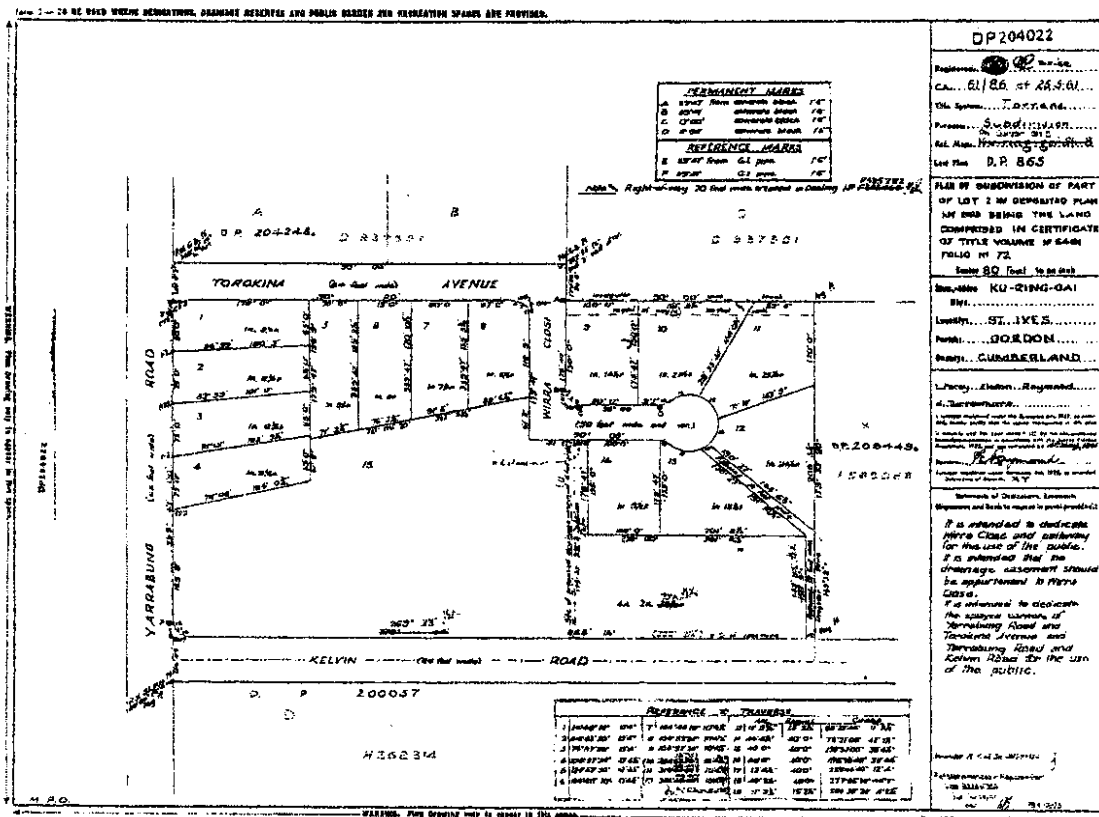
It is clear from the map accompanying the listing for this site in the Ku ring gai Heritage Study 1987 that the group as originally identified was confined to the subdivision along Torokina Avenue where it is divided with a central public reserve. Wirra Close where the subject site is located, is an earlier separate form of subdivision made in 1961 and has a distinct character separate to that of Torokina

In 1883, Lot 2 comprising 15 acres with two road frontages was transferred to Dennis Fethers of Terry Hills. (Volume 612 Folio 44) it was subsequently transferred to Catherine Lucas of Sydney, a widow in 1886 and to Issac Hininchoch in 1890. On the failure of a mortgage for the property in 1920, the land was transferred by the mortgagees to Thomas Johnson, a contractor of Pymble.

In the Post war period, pressure for residential land in the vicinity of Sydney led to the subdivision of many semi rural areas and in particular the area of St Ives. The subject land was transferred in 1949 to Patrick and Constance Norris of Bellevue Hill and was subdivided into two unequal lots in 1951. (Volume 6491 Folios 72 & 73) At this time portion of the northern boundary of the larger Lot near its junction with Yarrabung Road had been formed as a road known as Torokina Avenue and a narrow Right of Way was created over portion of that lot along its northern edge to give access to the smaller 5 acre lot to the east. (Volume 6491 Folio 72)

In 1957 the 10 acres previously owned by Wing Commander Patrick Norris and his wife was sold to Margaret Smith of Mosman.

Suburban subdivision of the land took place in 1961 when the 10 acres was subdivided into 16 lots and Wirra Close was constructed. (DP204022). Lot 9 of this subdivision was the land now occupied by No.2 Wirra Close and it was still affected by the original Right of Way along its northern edge giving access to the adjoining lot that was not to be subdivided until 1969. At the time of subdivision of Wirra Close, Torokina Avenue did not extend past the subject site.



1962 Subdivision Plan of western section of Torokina Avenue and Wirra Close creating the subject site Lot 9 in DP 204022.

The Buildings

Located on the site is a single storey painted brick and timber house with an asbestos shingled roof, surrounding a paved courtyard and an in-ground swimming pool. The house was originally designed in 1962 by Bruce Robertson of Robertson & Hindmarsh Architects for William Sherington, Company Director. It is of the character used extensively in the 1960's and 1970's by Robertson & Hindmarsh architects imitating in a limited fashion, the late architectural idioms of Frank Lloyd Wright, with small linked pyramidal pavillion roofs featuring copper pinnacles floating over masonry forms. The plan is linear in form and forms an 'L' shape around a north east facing courtyard. The open side of the court is screened by a timber pergola and screen wall. The original joinery and fenestration was timber. The original documentation provided by Bruce Robertson is attached to this statement.

The building was extensively modified externally and internally in the 1980's by Lindsay Little and Associates, architects for Mr & Mrs B.C. McCallion an insurance company executive. Copies of the documentation for these changes is also attached to this Statement .

Guidelines for Applications for Removal

Council has prepared and published guidelines for applications for the removal of properties from the heritage provisions. This statement complies with the requirements of those provisions. While the Council officers who have reviewed the situation surrounding this property have agreed that it does not seem to meet the threshold requirements for inclusion as a heritage item, nevertheless the onus of proof is on the owner to show why the place should not be protected under the heritage provisions.

Statement of Significance:

The Council requires the applicant to provide a demonstration or understanding of the potential significance of the item. This has been undertaken by me against the standard assessment criteria following basic research into the history of the property and with a sound knowledge of architectural styles and the history of the area.

Historical Evolution & Associations

The place has no strong significance for either Historic evolution or Historic associations. It was designed for William Sherington by architects of the 'second order', Robertson & Hindmarsh, as a relatively minor part of the process of suburbanisation of St Ives in the Post War decades. With these values it does not meet the threshold for inclusion as defined in the NSW Heritage Manual Publication on Heritage Assessments. The place is neither Rare nor Representative for these values at any level.

Aesthetic /Creative Excellence / Visual Qualities

The place shows limited aesthetic qualities as a rather eccentric but not wholly convincing application of particular eclectic design idioms to a relatively small suburban house.

Robertson & Hindmarsh indicate that in their opinion this was one of Bruce Robertson's major works because he had it professionally photographed.

The building was designed to be introverted with limited exposure to the corner site and inward looking spaces. The most dominant surviving elements of the original design are the clustered low pyramidal roofs with their diagonal asbestos shingled sheeting and the copper spires. The horizontal forms are accentuated by deep, boxed eaves overhangs.

Reasons for Removal from the Heritage Schedule

In our opinion this building was incorrectly identified to be part of the distinctive grouping of ostentatious eclectic houses in Torokina Avenue when the Ku ring gai Heritage Study was carried out in 1987. It is neither part of that distinctive subdivision nor characteristic of that group of buildings. No specific or general details as to why the house was included in the inventory or why the house was considered significant were provided at the time and in my opinion the identification was totally deficient in this regard. The site was not included in the identification map attached to the proposed listing, which indicates the extent of the group listing at that time. This omission suggests it was an afterthought or was not considered to be part of the Group.

Notwithstanding the fact that the house is not a coherent part of the group as listed, in my opinion the house also has insufficient heritage values for individual listing as a heritage item based on the inclusion / exclusion guidelines of the NSW Heritage Office. It is a relatively mundane example of its kind and has subsequently been modified by extensive alterations that have permanently removed original characteristics of the original design and parts of its fabric.

The building had no real significance when it was misidentified in 1987, the removal of the listing requested by this application will not in my opinion significantly affect the heritage resources of the Municipality and will not have any effect on the intrinsic values of the adjoining listed group as they currently exist.

The building is in sound condition and is well maintained. Structural inadequacy is not one of the reasons for seeking removal from the Heritage Provisions.

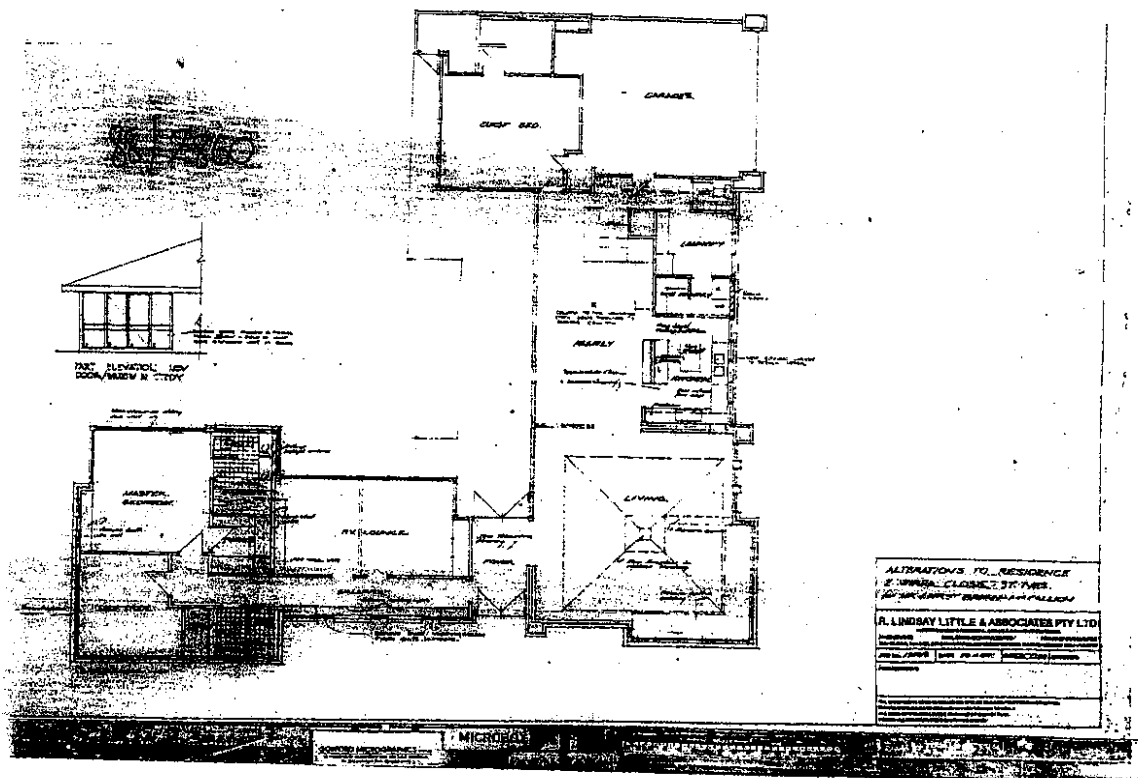
The imposition of the heritage order has however had a significant impact on the ability of the present owner to dispose of the property at its current market value in the climate of concern generated by general community concern for heritage. Repeated comments of potential purchasers have related to the Heritage listing as a significant disincentive to the purchase of a property that demonstrates no obvious heritage values and does not benefit from the heritage listing. The available heritage incentives for this site do not compensate for the devaluation arising from its listing.

Council's Heritage Advisor has already inspected the house in its surrounding context and expressed an opinion that based on the available material and the current altered state of the place, that the existing heritage listing could not be supported.

It is my professional opinion also that the existing place does not have significance for any value that would warrant its retention as a heritage item for the benefit of the Municipality of Ku ring gai, let alone for the State of New South Wales. For the reasons enumerated above I would therefore strongly suggest that the item be removed from Schedule 7 of the KPSO by means of an amending LEP at the earliest possible date and that the archival documentation gathered in this assessment be lodged with the Local Studies Collection of council for future reference.

Robert Staas

ROBERT STAAS
Director / Heritage Consultant
Noel Bell Ridley Smith & Partners Architects Pty Limited
April 2003



McCallion House
2 Wirra Close St Ives

Original working drawings by R Lindsay Little & Associates dated November 1988

Modifications to the original fabric carried out at this date included:

Additional Bedroom and en suite behind garage

Block original window to create Pantry

New Kitchen and ceiling etc.

Extended Family Room

New fireplace and ceiling to Living Room and removal of built in seating

New flooring to Foyer

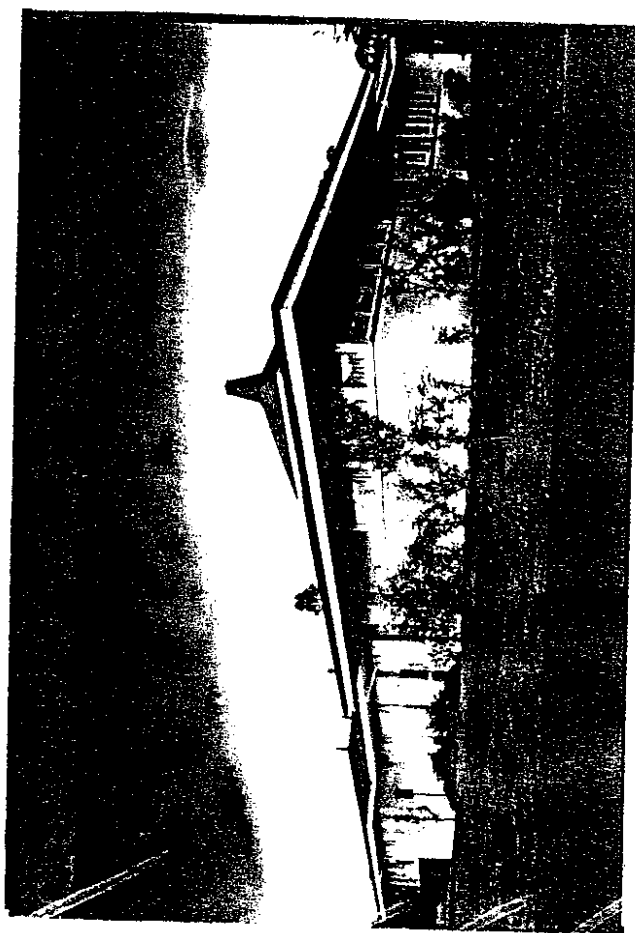
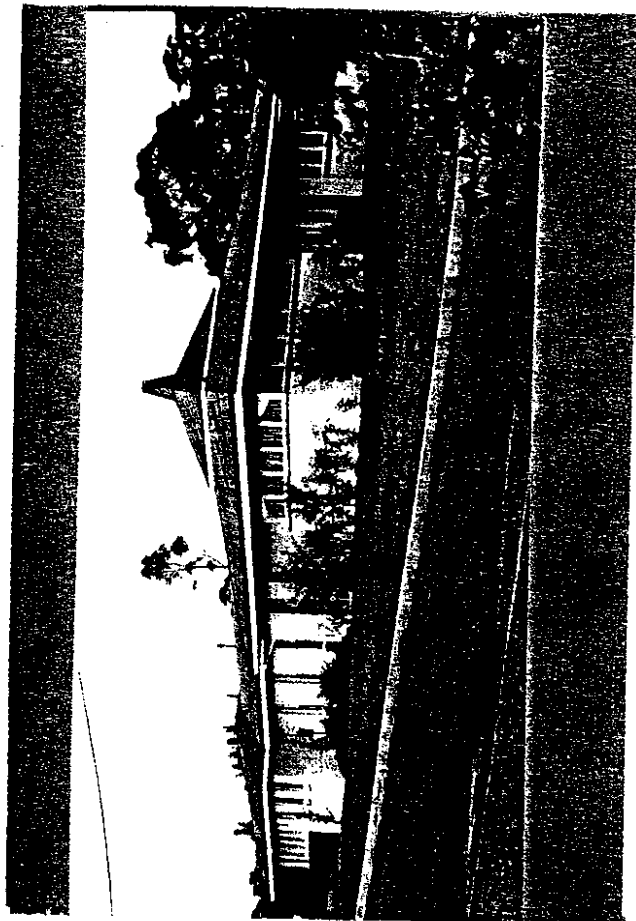
New windows to Gallery

'New' Study and modifications to Master Bedroom

New En Suite.

Subsequent modifications have also been made to this work by later owners including further internal changes to planning, especially around the kitchen and living room and with internal finishes and modification of the front doors.

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CONTENTS

FEBRUARY, 1964

Houses, Flats

- Decor Justifies a Good Plan 16
- Monial — With a Sub-tropical Slant 18
by Cynthia Whitfield
- House Turns Its Back to the Street 25
by Alma Somers
- Handsome Family House 26
- Interior Designer Remodels 30
by Judy Kehrli
- Planned for a Corner Site 96
by Clive Buhrich

Special Features

- An Exciting World of Ceramics 33
by Belinda Black
- New Styles in Tiles 34
- Plinths That Make Ingenious Use of Space 36
by Eva Buhrich
- Storage Makes Rooms Tidier . . . Life Easier 38

Furnishing, Decorating

- Decoration Flows with Color Continuity 20
by Frances Hutchison
- Harmony for Open-Planned Rooms 22

Handyman, Building

- Garden Additions for Handymen to Make 40
Multiply House Value by Additions 42
- Make a Room for Parents 44
- Living Space Above, and Under the House 47
- Build a Garage and Rescue a House 48
- Shelter for the Car 50
- Wall-away Safety Fence 93

Gardening

- Garden Beds in Color Harmony 52
by R. J. Bradley

Departments

- What's in Store? 6-8
- New Products Newsletter 10
- News of the Month 12
- Story of a Handyman 14
- Decorator's Diary 65
- Advice Please 94



OUR COVER:

Courtyard in the remodelled home of interior designer Barbara McKewan (Mrs Ian Campbell), Double Bay, NSW (See story page 30).

PHOTOGRAPHY: Color Prints.

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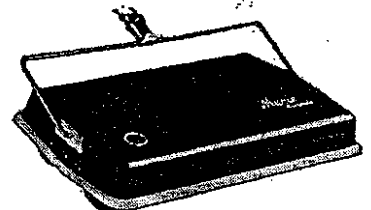
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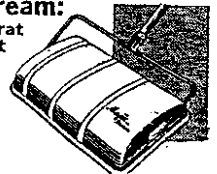


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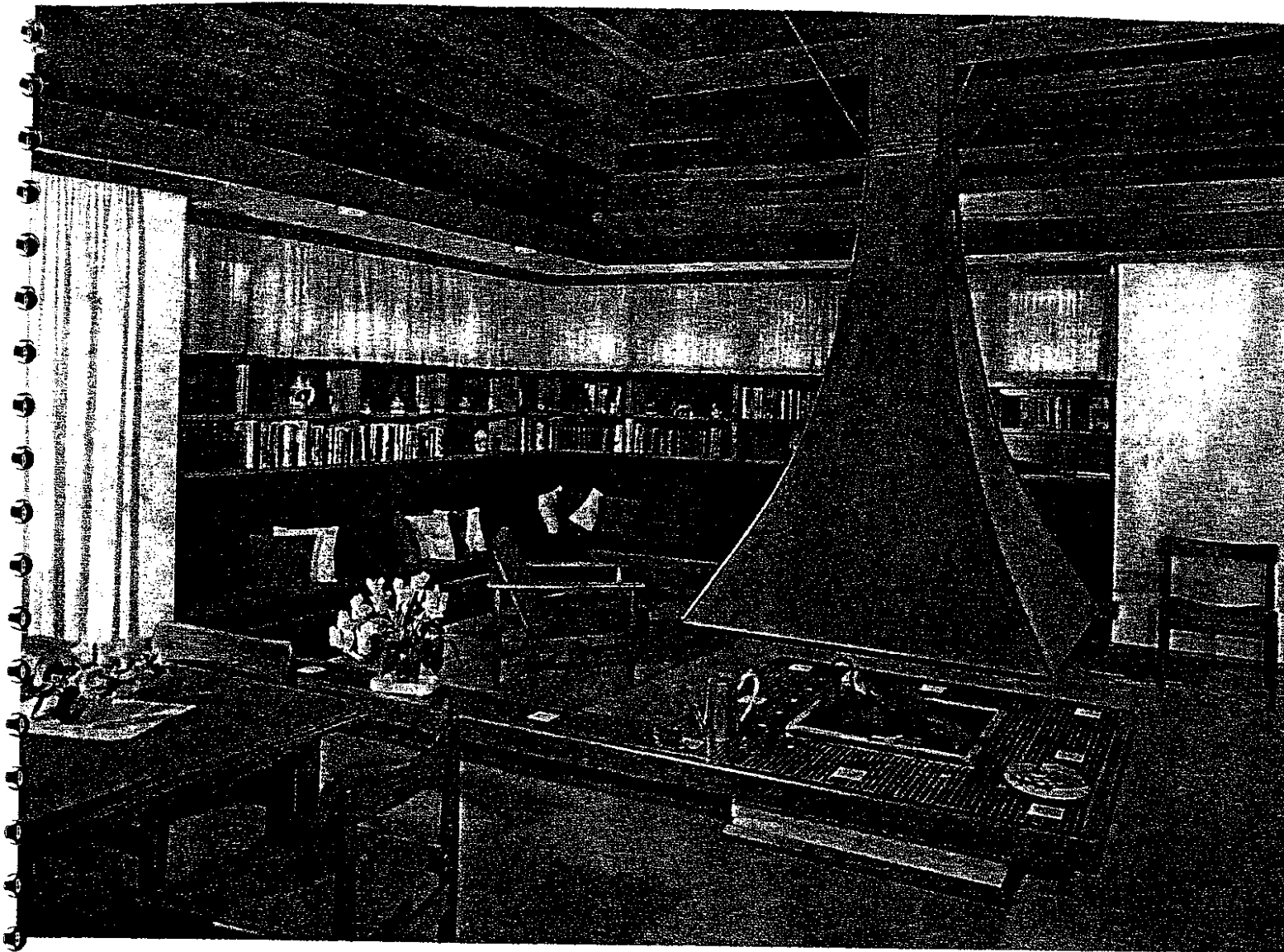
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THE TRUMPET-SHAPED copper firehood complements the domed Pacific maple roof of the living room. The low tiled bench separates the dining end from the book-lined eating area. Colors are natural browns with orange and olive green, offset by black.

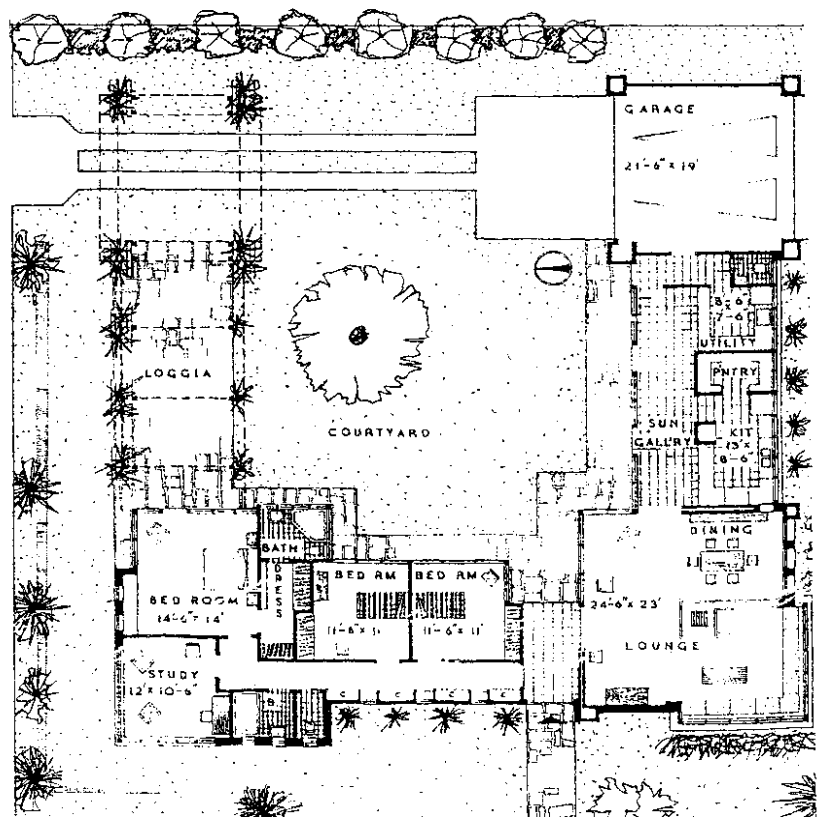
These windows give light to the hallway and break up the long outside wall. This window treatment, together with the dramatic roof shape and wide overhangs, is typical of the careful thought given to the design.

INTERIOR DESIGN BY THE ARCHITECT

The square entry hall has crisp black and white vinyl tiling, which is continued in the kitchen and gallery. The linking passageway between bedroom and living wing has four 8 ft high cupboards for linen, brooms and clothing. These cupboards are built into the window wall and alternate with the windows. Window-seats have bright yellow and white cushions to tone with the olive-green carpeting.

The living room has a 14 ft high timber ceiling, dome-shaped by means of scissor-trussing, which gives the room a tremendous effect of space and airiness.

Continued on page 62



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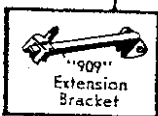
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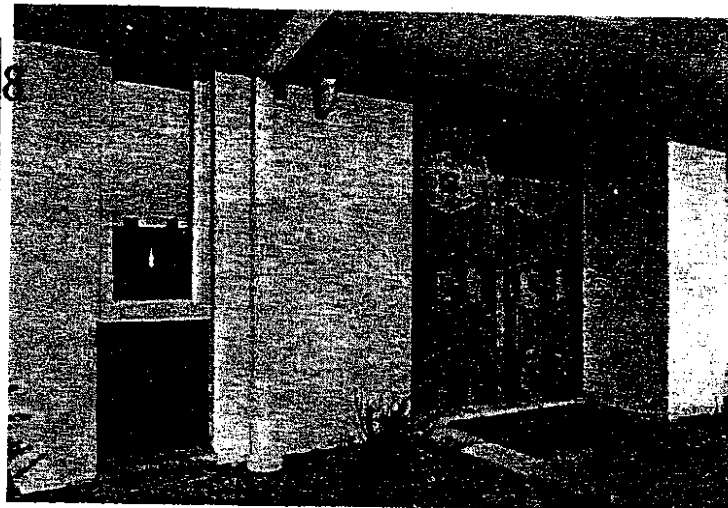
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48



ENTRY DOORS are veneered with Gaboon timber and have Queensland maple solid panels glued to them, in a design by the architect. The tall window looks on to the bedroom passageway, has dark chestnut weatherboarding, a stone sill, Thai silk blind.

FINE DECOR JUSTIFIES A GOOD PLAN

Continued from page 62

a continuation of the fireplace. The bench stands two feet off the ground, and is useful for ashtrays, magazines and pre-dinner drinks. It is low enough to step over, yet high enough to be a distinct divider between the two adjacent sections. The top of the bench and fireplace have one inch Italian black and white mosaics, relieved with gold.

The furniture is mostly teak, with a Pacific maple drinks-and-glass cabinet on the dining wall, recessed bookcases and a built-in seating unit in the living area. The L-shaped seating unit is 28 ft long and upholstered in dark olive green, several tones darker than the fitted olive green carpet used throughout the house. Curtains are white cotton scrim, both restful to the eye and good reflectors of daylight. Walls are cream, surrounds and woodwork are Pacific maple.

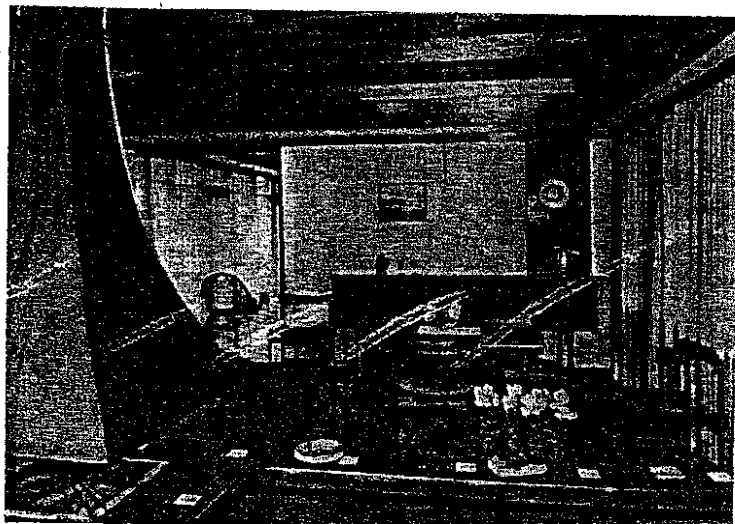
The color scheme revolves around the warm brown timbers and copper hood. Dining chairs

are upholstered in orange Thai silk; cushions are orange and cream.

A 25 ft long gallery on the north side gives the kitchen wing the feeling of a recreation area. The ceiling follows the roof slope and is covered with Klinkii pine plywood, supported by maple covered beams. Kitchen cupboard doors, pelmets and fascias contrast in varnished Pacific maple. Internal walls, including behind the built-in oven and in the pantry and utility room, are tongue-and-groove oregon. Fittings include a rotary fan above the stove, spot lighting, white laminated working tops and divider for bar-stool breakfasts. There's a walk-in pantry next to the refrigerator, with floor-to-ceiling shelving for china, pots and pans and foodstuffs.

The laundry is next to the pantry, and has been made a part of the kitchen wing, rather than being hidden behind a closed door. (See photograph.) A nearby door leads to the clothes line and double garage. #

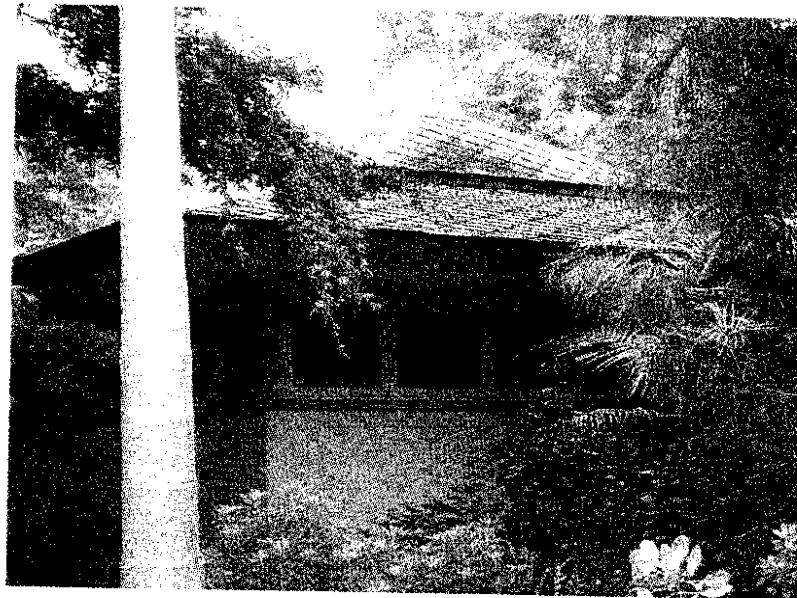
FROM THE LIVING ROOM AREA can be seen the tiled gallery, and hatchway through to the kitchen. The mosaic-tiled steel bench is a distinctive room divider. The dining furniture is teak, with orange Thai silk upholstery and a drinks cabinet of Pacific maple.



KU-RING-GAI COUNCIL

Assessment of Significance for

2 WIRRA CLOSE, ST. IVES



REPORT WRITTEN BY
GLEN COWELL HERITAGE SERVICES PTY. LTD.
ARCHITECTS AND HERITAGE CONSULTANTS
26th June 2005

TABLE OF CONTENTS

1.0	INTRODUCTION	3
1.1	CONTEXT OF THE REPORT	
1.2	DOCUMENTARY AND PHOTOGRAPHIC SOURCES	
1.3	AUTHORSHIP	
1.4	SITE IDENTIFICATION	
2.0	HISTORICAL OUTLINE	5
2.1	BACKGROUND	
2.2	DEVELOPMENT OF THE SITE	
2.3	OCCUPATION OF THE SITE	
3.0	THE EXISTING BUILDING	6
3.1	URBAN CONTEXT	
3.2	THE STYLE OF THE EXTANT BUILDING	
3.3	DESCRIPTION OF BUILDING EXTERIOR	
4.0	HERITAGE MANAGEMENT FRAMEWORK	9
4.1	AUSTRALIAN HERITAGE COMMISSION	
4.2	NSW HERITAGE COUNCIL	
4.3	KU-RING-GAI COUNCIL	
4.4	NATIONAL TRUST OF AUSTRALIA (NSW)	
4.5	ROYAL AUSTRALIAN INSTITUTE OF ARCHITECTS (NSW)	
5.0	ASSESSMENT OF SIGNIFICANCE	9
5.1	EVALUATION CRITERIA	
5.2	COMPARATIVE ANALYSIS	
6.0	GRADING OF SIGNIFICANT ELEMENTS	14
7.0	STATEMENT OF SIGNIFICANCE	16
8.0	RECOMMENDATIONS	17
9.0	ADDENDAS	18

1.0

INTRODUCTION

1.1 CONTEXT OF THE REPORT

This Assessment of Significance has been prepared at the request of Ku-ring-gai Council to identify the significance of the property known as 2 Wirra Close, St. Ives.

2 Wirra Close, St. Ives was designed in 1962 by the Sydney architect Bruce Robertson of Robertson and Hindmarsh for William Sherington. The property was gazetted as an Item of "Local Heritage Significance" in the Ku-ring-gai Planning Scheme Ordinance on November 4th, 1989. The current owners of the property have requested that the property be removed from the Ku-ring-gai Schedule of Heritage Items. In response to this request, Council has requested that the author prepare an independent heritage assessment of the property to determine its heritage significance, if any, and allow an informed decision to be made on its future.

1.2 DOCUMENTARY AND PHOTOGRAPHIC SOURCES

Documentary research for this assessment consists primarily of an assessment of data relating to mid to late 20th Century housing in Sydney and research undertaken by Ms. Glen Cowell, Director of Glen Cowell Heritage Services Pty. Ltd., into the history of the building and comparative stylistic designs around this period. Supplementary research and information has been sought by the author from the architectural firm of "Robertson and Hindmarsh" as well as the architect himself, Mr. Bruce Robertson. Various other sources such as current reports and contemporary articles relating to the property have been assessed in this assessment.

All current photographs were taken in March 2005 specifically for this report. Similarly, a preliminary inspection of the site, the exterior of the building and the immediate and wider context of the property in the municipality of Ku-ring-gai was conducted in March 2005.

1.3 AUTHORSHIP

This report has been prepared by Glen Cowell, Director of Glen Cowell Heritage Services Pty. Ltd., Architects and Heritage Consultants. Ms Cowell is a Conservation Architect and recognised Heritage Consultant who was employed as a Conservation Architect and Associate Director for Graham Brooks and Associates Pty. Ltd., Conservation Architects and Heritage Consultants between 1994 and 2000. She has also been employed as Heritage Advisor to Manly Council from 1995-2000, as a Heritage Planner for Woollahra Council from 2000-01, as Heritage Assessor for North Sydney Council during 2001-02, as Heritage Advisor to Kogarah Council from 2001-03 and is currently employed as Heritage Advisor to Auburn Council since 2003. (See Addenda 1 for CV of author).

1.4 SITE IDENTIFICATION

The property under consideration is known as 2 Wirra Close, St. Ives. The title description is Lot 2, DP 543666. The property is located on the corner of Torokina Avenue and Wirra Close and has its northern boundary on Torokina Avenue while both the western and southern boundaries address Wirra Close which turns a 'dog-leg' into a cul-de-sac at the south eastern corner of the site.

The property was identified as an item of potential significance in the Ku-ring-gai Heritage Study of 1978. No. 2 Wirra Close was identified as part of a group of houses in Torokina Avenue. The building is identified on the Heritage Study Inventory under the title "Torokina Avenue Estate, St Ives" with the address given as "30-54, 27-39 Torokina Avenue & 2 Wirra Close, Municipality of Ku-ring-gai." The Torokina Avenue Group has been identified under "Historical Themes-Local; Suburban consolidation" and reasons for listing given as: social, aesthetic group value, municipal, state (?) significance."

The property known as 2 Wirra Close is not part of an Urban Conservation Area (UCA) and is not located within a National Trust UCA.

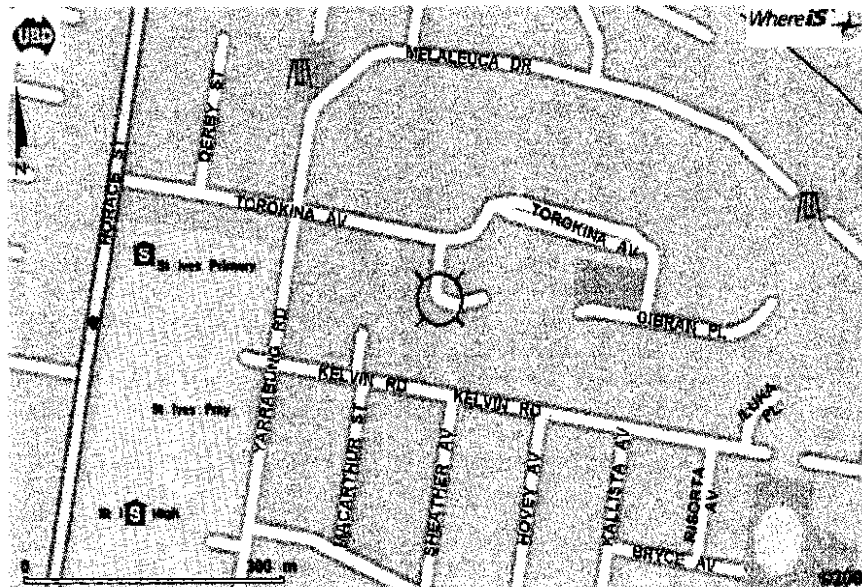


FIGURE 1. LOCALITY MAP 2 Wirra Close, St. Ives.

2.0 HISTORICAL OUTLINE

2.1 BACKGROUND

The pattern of development which occurred with the establishment of the northern railway did not occur in St. Ives. This area of Ku-ring-gai was to remain largely rural until the 1950s with a focus on orchards. Change was beginning to appear around 1944 when the architectural firm of Joseland and Gilling were commissioned by Ku-ring-gai Council to prepare a plan of a residential garden suburb in St. Ives. Council resumed a 20 acre site in 1946 which was named "Rosedale Gardens" and included sites for buildings, playing fields, landscaping and a memorial garden. The concept was extended until in 1961 it included tennis courts, sports ovals and a shopping centre.

One of the first subdivisions in the area was the development of a Housing Commission estate in c1954 in the Lawson Parade area where homes were built for returned servicemen. Areas in St. Ives were promoted as places where young families could establish new and enriched lifestyles. Many project homes were constructed in the 1950s and 1960s with building companies such as Lend Lease well featured in the growing district.

2.2 DEVELOPMENT OF THE SITE

The site of 2 Wirra Close, St. Ives was originally part of a 47 acre Crown Grant to John Black in 1877. In 1882 the land was subdivided into small 14 acre and 15 acre allotments intended for small scale farming. The streets formed by this early subdivision were named Yarrabung Road and Kelvin Street. In 1882

Lot 2 of the 1882 subdivision was purchased by Dennis Feathers of Terry Hills. In 1886 Lot 2 was purchased by Catherine Lucas, a widow from Sydney and then transferred to Issac Hininchoch in 1890. The land was eventually sold to Thomas Johnson in 1920 by the mortgagees of the Hininchoch property.

Lot 2 was purchased by Wing Commander Patrick Norris and his wife Constance in 1949. The Norris' were from Bellevue Hill and they subdivided the property into two allotments in 1951. Torokina Avenue was formed in this subdivision and a narrow 'Right of Way' was formed along the northern edge of the subject site to give access to the remainder of the site to the east. In 1957 the site was sold to Margaret Smith of Mosman and a subdivision of 1961 cut the land into 16 allotments and Wirra Close was constructed. Lot 9 of this subdivision is now known as No. 2 Wirra Close. At the time of this subdivision Torokina Avenue ended at the eastern kerb of Wirra Close.

In 1962 the subject site, 2 Wirra Close, was purchased by William George Sherington, a Company Director and owner of Ford Sherington Pty. Ltd., manufacturers of 'modern lightweight luggage' including the well known Globite brand. At the time of purchase by Sherington the site was encumbered by a Right of Way on the north boundary which gave access to the rear site formed by the 1951 subdivision. This R.O.W is still in existence.

ASSESSMENT OF SIGNIFICANCE

2 Wirra Close, St IVES

In 1969 Torokina Avenue was extended to the east and the main Torokina Avenue Estate was subdivided with allotments surrounding a central reserve. At the time of this subdivision, Lot 9 (2 Wirra Close) was amalgamated into the new lot pattern with the addition of a small triangular section of land fronting Torokina Avenue. 2 Wirra Close was renumbered Lot 17 DP 238226 and became part of the Torokina Avenue Estate subdivision.

The site of 2 Wirra Close, St. Ives lies within the original land grant to John Black c.1877. The subject property (2 Wirra Close) was purchased by William George Sherington in 1962. Sherington commissioned the architect Bruce Robertson of Robertson and Hindmarsh to design and build a new residence on 2 Wirra Close. At the time of the design and construction in 1962, the subject site addressed the two boundaries along Wirra Close. It was not until the 1969 subdivision of the Torokina Avenue Estate, that a third street boundary was created along the extension of Torokina Avenue and the property was now identified as part of the Torokina Avenue Estate subdivision.

The house itself at 2 Wirra Close, St. Ives was designed by Bruce Robertson of Robertson and Hindmarsh in 1962. (See sketch plan Addenda 2). Ku-ring-gai Council granted building approval in June 1962 and the house was constructed by builder, Norman T. Sumner of Eastwood and was completed in November 1963 for approximately thirteen thousand, four hundred pounds.

3.0 THE EXISTING BUILDING

3.1 THE URBAN CONTEXT

The property under consideration is known as 2 Wirra Close, St. Ives. It is identified within the suburb of St Ives and falls within the local government area of Ku-ring-gai. Wirra Close is located west of Garrigal National Park and below the south eastern edge of the St Ives Character Study Area as defined in Fig 1.1 (Study Area) of “Ku-ring-gai Heritage and Neighbourhood Study (June 2000), prepared for Ku-ring-gai Council by Godden Mackay Logan Keys Young.

The area to the south east of Mona Vale Road where the subject site is located is characterised by streets with no hard kerb and no front fencing. Front gardens merge with the road verge to make the landscaping appear continuous.

The immediate context of the subject property at 2 Wirra Close is currently residential with mostly single storey residences, some with first floor or roof additions located in Wirra Close and a variety of both single storey and two storey residences in the adjoining Torokina Avenue Heritage Group.

3.2 THE STYLE OF THE EXTANT BUILDING

2 Wirra Close, St. Ives is a single storey brick residence originally designed in a style closely modelled on the "Prairie Style" of the American architect Frank Lloyd Wright.

Sydney architects during the 1950s were strongly influenced by the designs of Japan and the United States of America. The early signs of a "romantic movement" are to be found in Sydney in the work of Peter Muller "who sought a dwelling of sheltered spaces in communion with nature for his own house at Palm Beach built in 1955"ⁱ. Since the end of the nineteenth century, Frank Lloyd Wright had been designing houses which integrated indoor and outdoor spaces, with projecting and therefore sheltering roofs, and what he called an "organic" relationship between building and site".ⁱⁱ

The design of 2 Wirra Close and a slightly later, similar styled residence also designed by the architect Bruce Robertson (located at 29 Womerah Street, Turramurra) both closely follow the style developed by the well known American architect Frank Lloyd Wright in his early 'Prairie Style' houses. Wright's houses of the turn of the century were to be the inspiration for the designs produced by Bruce Robertson at both Turramurra and St. Ives over half a century later. The architect having made a pilgrimage to Frank Lloyd Wright's country retreat "Taliesin" at Spring Green, Wisconsin, unfortunately arriving immediately after Wright's death in 1959ⁱⁱⁱ. Robertson did not have the opportunity to meet the world famous American architect. He did however wander around 'Taliesin' taking in the design concepts of the 'Master' and returned to Sydney to create his own interpretation of the 'Prairie Style' house in the designs for Turramurra and St. Ives.

Wright's 'Taliesin' is described by James F. O'Gorman in his publication 'Three American Architects' as "conceptually one storied, with its wings wrapped around its hillside site just below the summit... the interior of Taliesin joined its surroundings through tall openings leading onto terraces overlooking the rolling terrain... Taliesin is not a mere building but an entire environment in which man, architecture and nature form a harmonious whole" Taliesin according to O'Gorman was "not merely rural, it was anti-urban". Many of Wright's 'Prairie' designs centred on a cruciform-layout with open plan living and a "central hearth" as the main focus. Robertson was influenced by this 'central hearth' feature which was the major feature of the 2 Wirra Close design. The open plan living and central fireplace (see plan addenda 2) was the 'core' of the house with wings radiating out on either side to form wings along both of the Wirra Close boundaries. The design turns its back on the street and opens inwards to a central courtyard which opens off the living areas and is overlooked by the bedroom wing. The dominance of the central living room over the two extending wings was accentuated by a pyramidal roof clad in smooth diamond pattern asbestos roof tiles, the apex of which formed the chimney to the living room fireplace.

Bruce Robertson was a follower of the 'Sydney School' architects. A small group of Post-War graduates led by Peter Muller and Bruce Rickard who shunned the stark functionalism of the Post-War International style practiced by Sydney Ancher and the Viennese-born Harry Seidler in the 1950s and turned instead to the "organic" influences of Frank Lloyd Wright and his "Prairie Style" housing. While Muller chose a path which exploited the "organic" nature of materials such as stone and timber, Robertson was experimenting with simple materials and a much closer connection to Wright's stylistic detailing in "the Sherington House". The design that Robertson created for 2 Wirra Close was a prelude to the larger and more obviously 'Wrightsonian'

design at 29 Womerah Street, Turramurra which was completed about 2 years after the St. Ives house.

3.3 DESCRIPTION OF EXTERIOR; 2 Wirra Close

2 Wirra Close is a small scale, single storey painted brick and timber residence located on a corner site on the corner of Wirra Close and Torokina Avenue, St Ives.

The house was designed in 1962 by the architect Bruce Robertson of Robertson and Hindmarsh in an interpretation of Frank Lloyd Wright's 'Prairie Style' which Robertson knew first hand from his recent visit to North America in 1959 (see 3.2, p.9). The building layout of 2 Wirra Close closely resembles Wright's stylistic planning with an internal layout which turns its back on the street and addresses an inner courtyard through floor to ceiling glazed walls. This was a design which integrated the interior of the house with nature. The design presents two long, low wings reaching out in opposite directions from the main pyramidal roofed pavilion which houses the living and dining areas. The exterior facades with their masonry and strip window detailing and low sweeping hipped rooflines, closely resembles Wright's Prairie house design for the Cheney house in Oak Park Chicago. Of particular note is "the way the windows are nestled in so protected a fashion between the wide eaves of the roof and the substantial sill that girdles the house."^{iv}

Robertson's design picks up on many of the defining features of Wright's style. The wide eaves, the opening of the inside to the outside and turning its back on the street, the central hearth and the wings with their different functions which reach out from the central living spaces. Of particular note is the ventilated roof to the living room which forms an anchor point for the whole house to pivot around, and the way the layout makes the most of the two street facades with the front entrance addressing one street and the service wing addressing the other street.

The house was constructed of simple low cost materials, painted brickwork, weatherboarding, asbestos diamond pattern roof shingles and simple awning and casement style windows. A feature of the living room pavilion was a bank of strip windows located immediately below the wide eaves overhang of the roof which externally, gave the impression of a floating roof and allowed plenty of space for the fixed seating around the wall of the living area.

The Torokina Avenue Group, in which 2 Wirra Close has been listed, is a group of large mid to late 1960s houses of varying eclectic styles. A combination of one and two stories which is indicative of the housing stock in the St. Ives area, the buildings in this group display an interesting representation of the eclectic tastes of the emerging middle class in St Ives. The general character of the group has been classed by Robert Staas as "revivalist styles based mainly on American examples"^v.

The listing of 2 Wirra Close, as an interesting local interpretation of the style favoured by the American Architect, Frank Lloyd Wright, at the entrance to the Torokina Estate Group appears therefore, to be a very appropriate and logical decision.

4.0

HERITAGE MANAGEMENT FRAMEWORK

4.1 AUSTRALIAN HERITAGE COMMISSION

2 Wirra Close, St. Ives is not recorded on the register of the National Estate

4.2 NSW HERITAGE COUNCIL

2 Wirra Close, St. Ives is not recorded as an item of State Significance.

4.3 KU-RING-GAI COUNCIL

2 Wirra Close, St. Ives is listed in Ku-ring-gai Council Local Environmental Plan as an item of local significance. The subject site is not located within a National Trust Urban Conservation Area (UCA) or Potential Conservation Area (PCA).

There is some confusion with this listing as 2 Wirra Close was not constructed as part of the Torokina Avenue development and is not shown on the map on Inventory sheet as one of the listed properties but is named within the description of the group. No 2 Wirra Close St. Ives should be listed individually.

4.4 NATIONAL TRUST OF AUSTRALIA (NSW)

2 Wirra Close, St. Ives is not included on the National Trust of Australia (NSW) Register.

4.5 ROYAL AUSTRALIAN INSTITUTE OF ARCHITECTS (NSW)

2 Wirra Close, St. Ives is not listed on the register of Significant Twentieth Century Buildings

5.0 ASSESSMENT OF SIGNIFICANCE

5.1 EVALUATION CRITERIA

This section establishes the criteria which are used to establish significance and identifies the reasons for the cultural values of the site and components.

“Heritage significance”, “cultural significance” and “cultural value” are all terms used to describe an items importance or value to our society. This value may be contained within the fabric of an item, its setting and its relationship to other items, the response that the item stimulates in those who value it now and in the historical records that allows us to understand it in its own context. The assessment of what has significance is not static. Significance may increase as more is learnt about the past and as items become rare, endangered or illustrate aspects that achieve a new recognition of importance.

Determining the cultural value is at the basis of all planning for places of historic value. A clear determination of significance permits informed decisions for future planning that will ensure that the expressions of significance are retained, enhanced or at least minimally impacted upon. A clear understanding of the nature and degree of significance will determine the parameters for, and flexibility of, any future development.

An analysis and understanding of the physical evidence provides the context for assessing the significance of an item. These are presented in the preceding sections. The NSW Heritage Office has produced standard evaluation criteria for assessing the cultural significance of potential items which are used in this assessment.

There are four criteria used to assess the significance of an item, they are :

- Criterion 1 historical significance (evolution and association). An item having this value is significant because of the importance of its association with, or position in the evolving pattern of our cultural history.
- Criterion 2 aesthetic significance (scenic / architectural / qualities / creative accomplishment). An item having this value is significant because it demonstrates positive visual or sensory appeal, landmark qualities and / or creative or technical excellence.
- Criterion 3 technical/research significance (archaeological, industrial, educational, research potential and scientific significance values). Items having this value are significant because of their contribution or potential contribution to an understanding of our cultural history or environment.
- Criterion 4 social significance (contemporary community esteem). Items having this value are significant through their social, spiritual or cultural association with a recognisable community.

There are two criteria used to assess the degree of significance:

- **Rarity** (An item is significant because it represents a rare, endangered or unusual aspect of the history of a place or its historic environment.)
- **Representative** (Items of this quality are significant because they represent an important class of historic items or environments and are good or excellent examples of that class.)

Other criteria which can also be used to qualify the nature of significance include:

- Intactness (of the physical fabric of the item)
- Seminal (an important early work of a major architect)
- Climactic (an important work which demonstrates the culmination of a particular architectural style)
- **Criterion 1 historical significance:** 2 Wirra Close, St. Ives has historical significance as a design of the Architect Bruce Robertson of Robertson and Hindmarsh, and as the home of William George Sherington, a Company Director and owner of Ford Sherington Pty. Ltd., manufacturers of 'modern lightweight luggage' including the well known Globite brand.
- The building has significance as a largely intact (external) example of a fashionable Mid 20th Century "romantic movement" residence which reflects the evolving pattern of stylistic development in Sydney and within the Ku-ring-gai Municipality throughout the 1950s and early 1960s.
- The building at 2 Wirra Close is a fine and largely intact example of the eclectic styles and North American influences which were evident in the designs of the "Sydney School" architects working in the emerging Northern Suburbs of Sydney in the 1950s and 1960s.
- **Criterion 2 aesthetic significance:** 2 Wirra Close, St. Ives has aesthetic significance as a largely intact external example of a residential building embodying the Japanese and American philosophy of "the need for a continuing communication between man and nature". The building, with its wrap around plan, asbestos tiled hip roof with high peaked ridge and wide overhanging eaves has strong connections to the "organic" style of Frank Lloyd Wright who had created the inspiration for this building with his "Prairie style" and "west coast architecture" of the early nineteenth century.
- **Criterion 3 technical/research significance:** The building has some technical /research potential for its unusual roof structure which incorporates a scissor truss structure with a ventilating ring at the intersection of the top and bottom chord of the truss. It is also significant for the intact detailing externally which displays the use of economic building materials and techniques.
- **Criterion 4 social significance:** 2 Wirra Close, St. Ives has some social significance as one of the earliest houses in the mid 20th century development of St. Ives as a new residential suburb. Some social significance as an example of the influence of American architectural styles on the post-War Sydney architect.

5.2 COMPARATIVE ANALYSIS

2 Wirra Close, St. Ives. has aesthetic significance as a largely intact example of the design philosophy of the period. The work of Frank Lloyd Wright was having a strong influence on Sydney houses of the 1950s and 1960s. A number of young Sydney architects including Bruce Rickard, Peter Muller, Ian Mackay and Bruce Robertson had visited North America in the late 1950s to study the work of Frank Lloyd Wright. On their return, these architects had put the influences to work in the designs of the houses for themselves and their clients, mostly around the northern suburbs of Sydney.

Peter Muller chose to follow Wright's later stylistic forms with his 'Richardson House' at Palm Beach (1956) with its warm tones of natural materials and a design that seemed to become part of the surroundings (Fig. 6). The work of Bruce Rickard, particularly the house in Wahroonga, followed Wright's formulae for the "Prairie Style" houses of Chicago and the mid west. The house Rickard designed for his family featured open planning in the living areas with a large central fireplace. "The long horizontal lines give a feeling of repose and shelter...[in its]...bushland setting and...all rooms, even the small bedrooms, relate to the exterior"

Bruce Robertson's "Sherington House" design of 1962 was closer to the style used by Rickard than to the designs of Muller, particularly with the interior layout with its open planning, the relationship of the interior to the outside and the use of simple, inexpensive building materials. Robertson's design philosophy is obviously indebted to Wright's earlier stylistic formula for the "Prairie Style" and is a recurring theme throughout his work.

"The architect-designed houses of the 1950's shared common characteristics. Most were unobtrusive buildings, more concerned with comfort and convenience than with outward show. Their sites were commonly battle-axe blocks or out-of-the-way pockets of land. One of the greatest differences between these houses and their predecessors lay in the minimal use of internal partitions, and the interconnection of many of the rooms...much of the organisation was based on zoning....and separation was achieved by distance or levels."^{vi} A common practice was to separate living and sleeping areas by location and courtyards exactly as Bruce Robertson has done in the Sherington House.

The designs of these so called 'romantic movement' architects was contrary to the "rationality" of the International Style which had been introduced to Sydney by the Viennese born architect Harry Seidler. Seidler and the Australian architect, Sydney Ancher who lived in Europe for some years during the 1930s introduced the sleek modern International style to Australia. Their designs were radical to conservative Australians and based on the work of architects such as Le Corbusier, Walter Gropius and Mies van de Rohe. Acceptance of the "International Style" was not immediate and the featured flat roof was particularly offending to Australian taste. Wright's "harmonious compositions" were much more compatible with the Australian bushland settings of the subdivisions which were opening up in the outer northern suburbs of Sydney.

'The Sherington House' along with Bruce Robertson's later commission at 29 Womerah Street Turramurra, are important examples of the architect's interpretation of Wright's 'Prairie Style' in Australia. These two houses in Ku-ring-gai municipality

provide an insight into the philosophical as well as the economic direction of housing and the stylistic development of the Sydney architects of the mid nineteenth century leading up to the "Sydney School" of the 1960s. The two houses are important elements in understanding the residential development of the period.

6.0

GRADING OF SIGNIFICANT ELEMENTS

6.1 INTRODUCTION

The various components of the building have been assessed to determine a relative grading of significance. This process assesses a number of factors including:

- Original Architectural Quality
- Degree of Intactness and General Condition
- Extent of Subsequent Change
- Association with important people or events
- Ability to demonstrate a rare quality, craft or construction process.

A four tier system of values has been chosen to establish the grading of significance across the whole building. This acts as a valuable planning tool and will assist in developing approaches to the conservation of the key elements within a potential redevelopment of the site.

The tiered system of ratings has the following components:

HIGH SIGNIFICANCE:

Of considerable or exceptional cultural significance to the wider community.

MEDIUM SIGNIFICANCE:

Of some significance within the particular building.

LOW SIGNIFICANCE:

Of relatively slight significance, particularly when compared to other features.

INTRUSIVE:

An intrusive or disruptive element of slight significance which tends to devalue the significance of the adjacent components or the building as a whole.

6.2 SIGNIFICANT ELEMENTS

ITEMS OF HIGH SIGNIFICANCE

The following items are considered to be of High Significance:

- The scale, massing and external detail of the original residence, including all original external brick and timber walling, string courses and mouldings, original windows and doors.
 - The scale, massing and detailing of the pyramidal roof including the original wings
- All original or early timber window joinery including timber frames, sashes, architraves and mullions. Including all original openings on south and west facades.
- The layout of the residence including the internal courtyard within the two wings of the house.
- The siting of the building when viewed from Wirra Close
- The original curtilage, including gardens, lawns and trees within the context of the streetscape.

These components are considered to have high significance rating due to their relative design quality, degree of intactness, condition and visual contribution in relation to the historic and aesthetic significance of the building

ITEMS OF MEDIUM SIGNIFICANCE

Modified copper lined front door. Layout of kitchen, laundry and adjoining glazed wall gallery (modified).

ITEMS OF LOW SIGNIFICANCE

Additions at rear of garage.

INTRUSIVE ITEMS

Interior plasterboard lining to ceiling and walls of living /dining room

7.0

STATEMENT OF SIGNIFICANCE

7.1 STATEMENT OF SIGNIFICANCE

"The Sherington House" at 2 Wirra Close St Ives is a low scale single storey painted brick and timber residence with design and detailing strongly influenced by the "Prairie Style" residences designed and constructed in Oak park, Chicago and the West Coast of USA within the early decades of the twentieth century. The residence is significant for the following reasons:

"The Sherington House" is significant as part of the residential development phase of the northern suburbs of Sydney around the middle of the twentieth century.

"The Sherington House" on its corner site is significant as a reflection of the 'romantic movement' which was being led by young Sydney architects of the period who had travelled to North America in the 1950s and early 1960s bringing back to their Australian practices, the stylistic influences of Frank Lloyd Wright .

"The Sherington House" is largely intact externally and has aesthetic and technical significance as one of the few residential buildings to be designed in a variation of the "Prairie Style" within Ku-ring-gai municipality.

The form, scale and detailing of the house is simple and characteristic of the "Prairie Style". The detailing of this particular residence is rare in Sydney for its design, particularly the pyramidal roof and its copper finial over the open plan living room and the low roofed wings which extend out along the two Wirra Close boundaries of the site.

The building has aesthetic significance for the largely intact original external fabric of the residence, which retains the character of the original design. It has significance as one of the early residences, constructed as part of the early subdivision of land in the immediate area. The overall design and character of the building is indicative of the early development of the suburb.

The interior of the building has not been inspected. However from the report by Robert Staas (April 2003), it appears that the recent internal modifications may have resulted in the removal of the central fireplace, new seating and ceiling lining to living room and enlargement of the sun gallery, however, the interior layout and overall design intent of the interior is largely as originally constructed.

The reinstatement of the original timber ceiling (which appears to be intact under the recent plasterboard lining, as indicated in the "Stass" report) would add greatly to the overall significance of the residence and this aspect should be investigated prior to any approvals for modification or alterations to the interior fabric.

The mature gardens around the house are significant as the original curtilage to this significant item.

8.0

RECOMMENDATIONS

"The Sherington House" at 2 Wirra Close is one of a number of Sydney residences designed in the "Prairie Style" by the architect Bruce Robertson of Robertson and Hindmarsh. The house is in a largely intact condition externally and still located in its original curtilage and surrounding gardens which are now somewhat overgrown.

This house, along with Bruce Robertson's other "Prairie Style" design at Turramurra are fine and rare examples within the Ku-ring-gai municipality of a residential building which was strongly influenced by the philosophy of the early nineteenth century American architect Frank Lloyd Wright. The character of this building is reflective of the "Prairie Style" made famous by Frank Lloyd Wright in Chicago and the West Coast of America in the early decades of the twentieth century.

The site known as 2 Wirra Close has previously been listed on Schedule 7 of the Ku-ring-gai Planning Ordinance as part of the Torokina Avenue Group. 2 Wirra Close certainly has some connection with the Torokina Avenue Estate Group from the inclusion of the site as part of the Torokina Avenue Estate subdivision. However, even with this link, "The Sherington House" is obviously an individual item of significance which was designed and constructed well in advance of building construction on the adjoining subdivision. Consideration should therefore be given to re-listing by Ku-ring-gai Council as an individual heritage item in its own right.

Taking into consideration the context of the property and the assessed significance of the extant building identified within this report it is also considered appropriate that first floor additions may be possible in areas that will not have a negative impact on the overall character of the building.

Consideration should be given to allowing alterations and additions at the far eastern end of the garage wing. Consideration should be given to allowing an upper floor addition of sympathetic design and complimentary fabric located over the existing garage pavilion and an additional wing to further enclose the courtyard.

- "The Sherington House" should be retained as an item of significance within the suburb of St. Ives. The extant building should be retained largely in its original form and detail as a single storey dwelling addressing this corner of Wirra Close
- "The Sherington House" should be retained as a largely intact external example of a simple mid century suburban house strongly influenced by the Prairie Style made famous in the early 1900s by the North American Architect, Frank Lloyd Wright .
- "The Sherington House" should be retained as an isolated building on its original corner allotment with any modifications or upper floor additions restricted to the far (garage) end of the eastern wing of the extant house.

ASSESSMENT OF SIGNIFICANCE

2 Wirra Close, ST IVES

The quality of design and original fabric of the interior, particularly the large open plan living /dining area with high vaulted timber clad ceiling and the focus of the interior towards the internal courtyard, appears to have remained largely intact if modified. As it has been indicated in the “Staas Report” that the original timber ceiling is intact under the later plasterboard ceiling lining, reinstatement of this significant element would add greatly to the integrity and intactness of the building. A heritage assessment of the interior should be made prior to any decision on the type and extent of redevelopment that the building could sustain.

- “The Sherington House” should be retained as a significant landmark element in its own right.
- “The Sherington House” should be retained as a significant item defining the entrance to the Torokina Avenue Estate Group.

9.0 BIBLIOGRAPHY

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ENDNOTES

The History and Design of the Australian House, Compiled by Robert Irving, "Beyond the 1950s" by Jennifer Taylor, Oxford University Press, Sydney 1965, p. 146

ii Ibid.

iii Information related to the author by the architect's son, Scott Robertson of Robertson and Hindmarsh.

iv Description of the Cheney house, Sprague, Paul E., *Guide to Frank Lloyd Wright & Prairie School Architecture in Oak Park*. p75

v "Statement in Support of Deletion of a Heritage Item Listed in Schedule 7 of Ku-ring-gai Planning Scheme Ordinance" Robert Staas, April 2003, p1.

vi *The History and Design of the Australian House*, compiled by Robert Irving, *Beyond the 1950s*, p.150

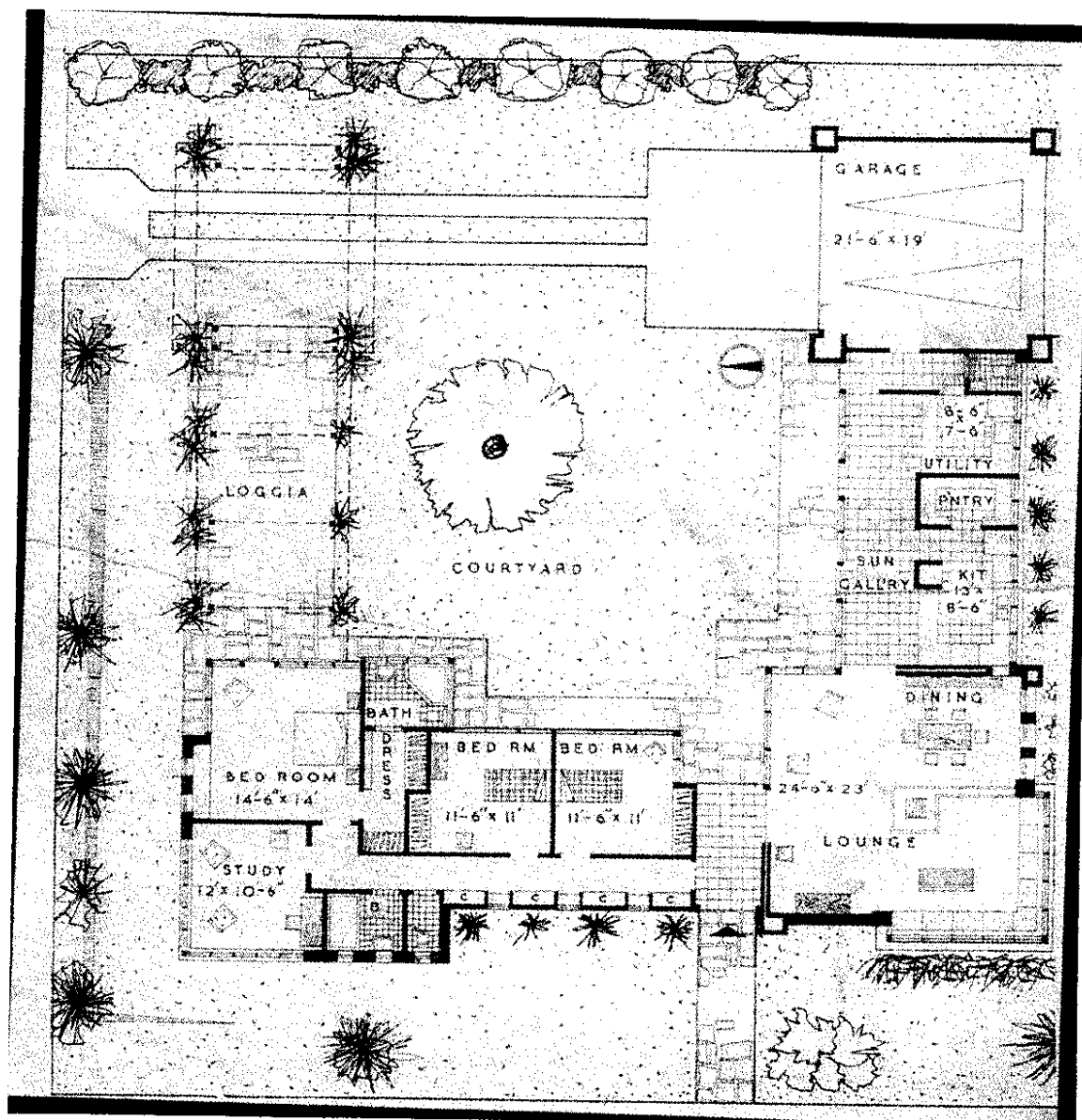


Fig 1 Plan of Building 2 wirra Close, St. Ives B. Robertson, Robertson & Hindmarsh c.1962

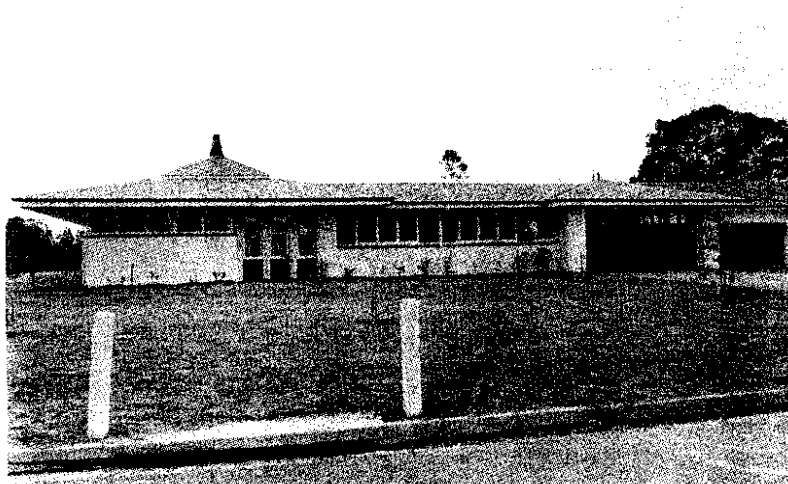


Fig 2 2 WirraClose Southern Elevation showing central pavilion and service wing.
Architect's photograph c.1963

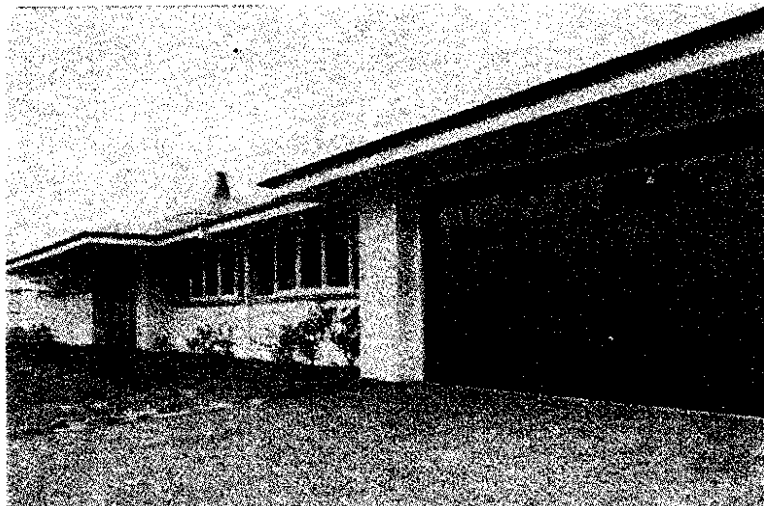


Fig 3 2 WirraClose Southern Elevation showing garage and service wing.
Architect's photograph c.1963

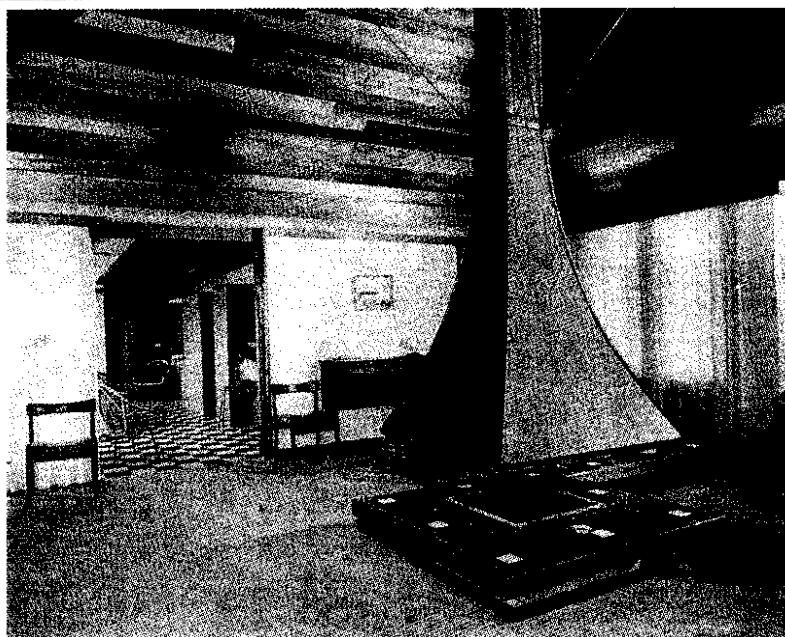


Fig 4 2 WirraClose Interior: showing central fireplace and rakes timber ceiling
Architect's photograph c.1963

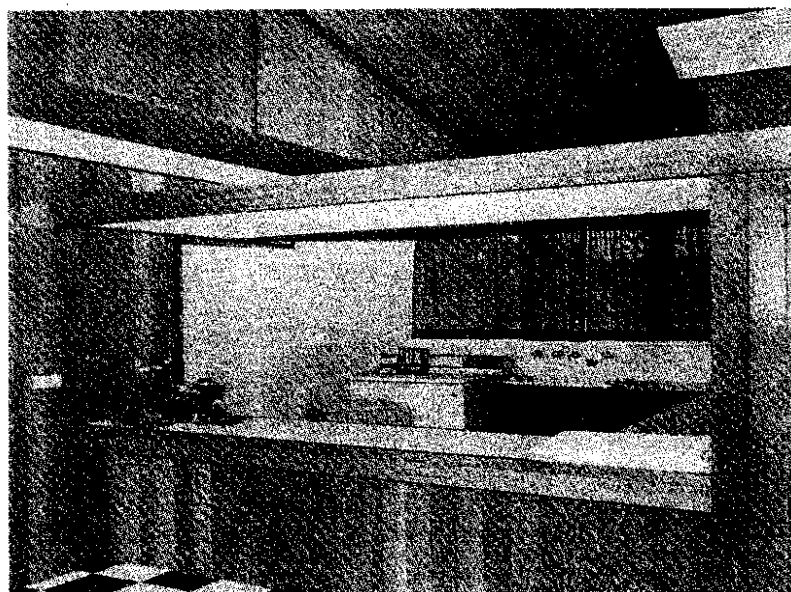


Fig 5 2 WirraClose Interior: showing laundry, photograph taken from gallery
Architect's photograph c.1963

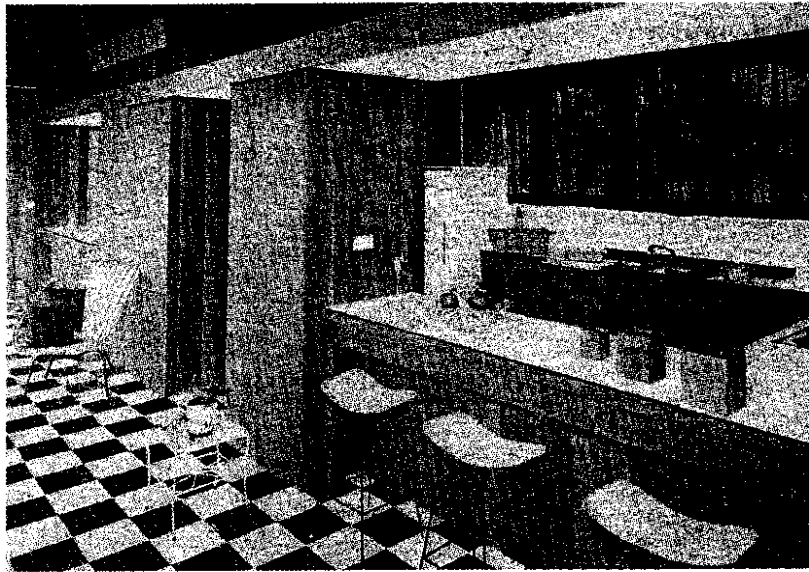


Fig 6 2 WirraClose Interior: showing original kitchen, photograph taken from gallery
 Architect's photograph c.1963

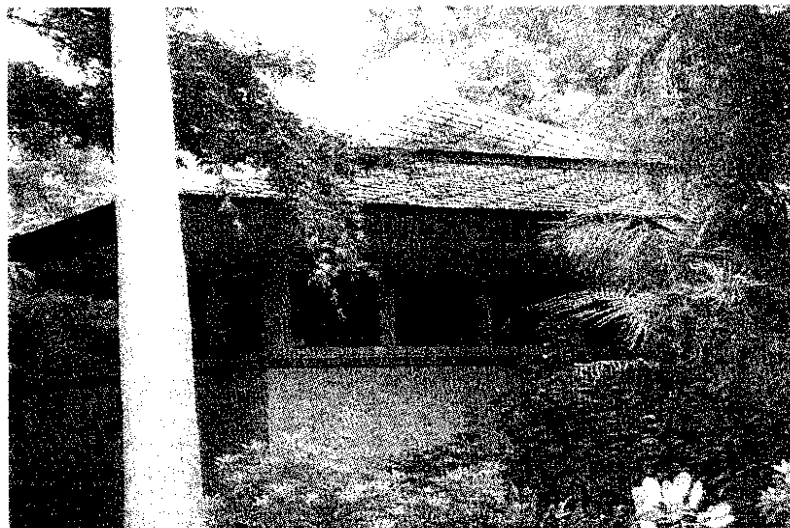


Fig 7 2 WirraClose Contemporary external photograph 2005. showing pyramidal roof
 and chimney of central pavilion Note original strip windows and wide eaves

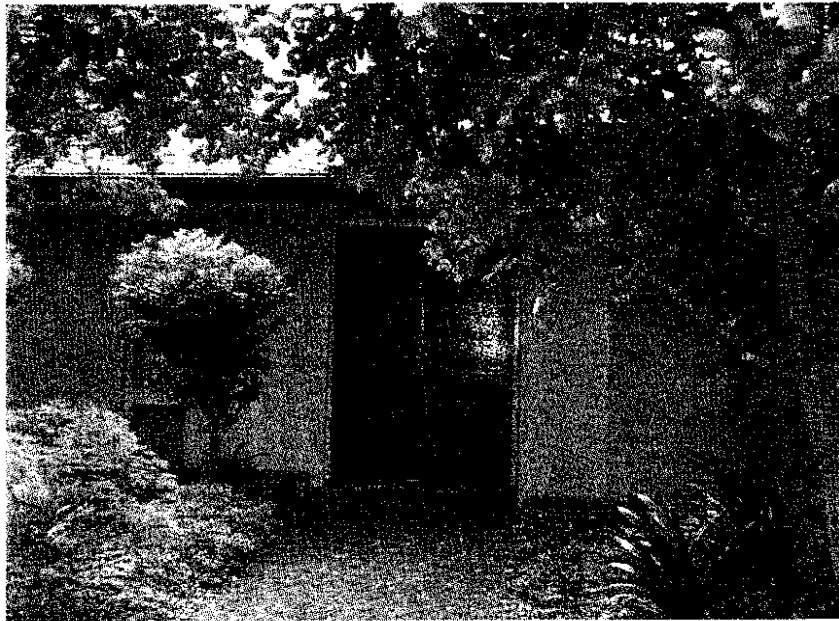


Fig 8 2 WirraClose Contemporary external photograph 2005. showing main entrance and modified front door to central pavilion



Fig 9 2 WirraClose Contemporary external photograph 2005. showing northern

end of bedroom wing. Note modified windows and doors

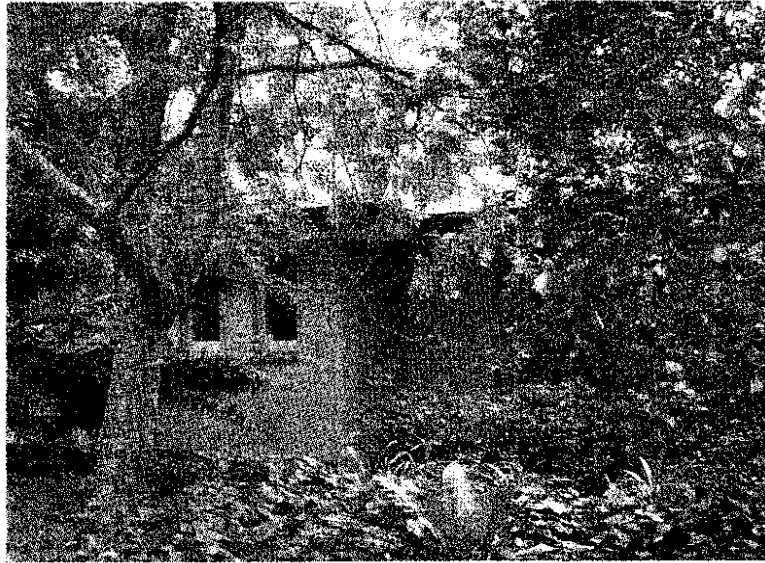


Fig 10 2 WirraClose Contemporary external photograph 2005. showing Kitchen/laundry service area windows



Fig 11 29 Womerah Street, Turrumurra Contemporary external photograph 2005.
Note pyramidal roof of central pavilion, strip windows and wide eaves.
Design by Bruce Robertson , Robertson and Hindmarsh Completed 1964.

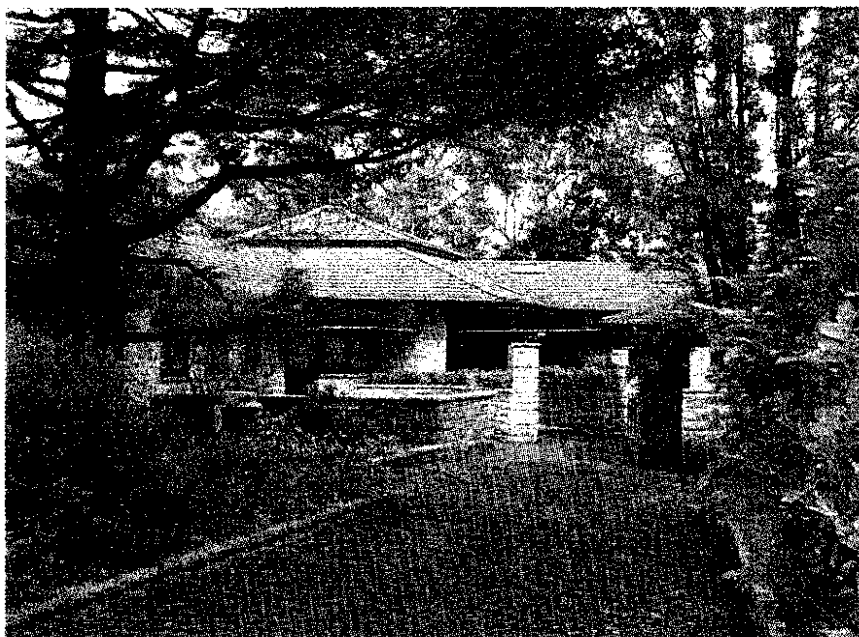


Fig 12 29 Womerah Street, Turrumurra Contemporary external photograph 2005.
Note pyramidal roof of central pavilion, strip windows and wide eaves.
Design by Bruce Robertson , Robertson and Hindmarsh Completed 1964.



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74

ITEM DETAILS							
Name of Item	"The Sherington House"						
Other Name/s Former Name/s							
Item type (if known)	Built						
Item group (if known)							
Item category (if known)	House						
Area, Group, or Collection Name	Torokina Avenue Estate Group						
Street number	2						
Street name	Wirra Close						
Suburb/town	St. Ives					Postcode	2075
Local Government Area/s	Ku-ring-gai						
Property description	Lot 2 DP543666						
Location - Lat/long	Latitude				Longitude		
Location - AMG (if no street address)	Zone		Easting		Northing		
Owner							
Current use	Residential						
Former Use	Residential						
Statement of significance	<p>"The Sherington House" at 2 Wirra Close St Ives is a low scale single storey painted brick and timber residence with design and detailing strongly influenced by the "Prairie Style" residences designed and constructed in Oak park, Chicago and the West Coast of USA within the early decades of the twentieth century. The residence is significant for the following reasons:</p> <p>"The Sherington House" is significant as part of the residential development phase of the northern suburbs of Sydney around the middle of the twentieth century.</p> <p>"The Sherington House" on its corner site is significant as a reflection of the 'romantic movement' which was being led by young Sydney architects of the period who had travelled to North America in the 1950s and early 1960s bringing back to their Australian practices, the stylistic influences of Frank Lloyd Wright.</p> <p>"The Sherington House" is largely intact externally and has aesthetic and technical significance as one of the few residential buildings to be designed in a variation of the "Prairie Style" within Ku-ring-gai municipality.</p> <p>The form, scale and detailing of the house is simple and characteristic of the "Prairie Style". The detailing of this particular residence is rare in Sydney for its design, particularly the pyramidal roof and its copper finial over the open plan living room and the low roofed wings which extend out along the</p>						

	<p>two Wirra Close boundaries of the site.</p> <p>The building has aesthetic significance for the largely intact original external fabric of the residence, which retains the character of the original design. It has significance as one of the early residences, constructed as part of the early subdivision of land in the immediate area. The overall design and character of the building is indicative of the early development of the suburb.</p> <p>The interior of the building has not been inspected. However from the report by Robert Staas (April 2003), it appears that the recent internal modifications may have resulted in the removal of the central fireplace, new seating and ceiling lining to living room and enlargement of the sun gallery, however, the interior layout and overall design intent of the interior is largely as originally constructed.</p> <p>The retention of the timber ceiling under the recent plasterboard lining (as indicated in the "Stass" report) would add greatly to the overall significance of the residence and this aspect should be investigated prior to any approvals for modification or alterations to the interior fabric. Some restoration of the interior may be possible to enhance the integrity of the house.</p> <p>The mature gardens around the house are significant as the original curtilage to this significant item.</p>
Level of Significance	<div>State</div> <div>Local RARE</div>

DESCRIPTION					
Designer	Bruce Robertson, Architect; Robertson & Hindmarsh				
Builder/ maker	Norman T.M.Sumner, Builder				
Physical Description	<p>2 Wirra Close is a small scale, single storey painted brick and timber residence located on a corner site with a central pavilion marked by a dominant pyramidal roof with a central chimney.</p> <p>The building layout of 2 Wirra Close closely resembles Frank Lloyd Wright's "organic" architecture with an internal layout which turns its back on the street and addresses an inner courtyard through floor to ceiling glazed walls. This was a design which integrated the interior of the house with nature. The design presents two long, low wings of bedrooms and service areas reaching out in opposite directions from the main pavilion which houses the living and dining areas.</p> <p>The exterior facades feature painted masonry and timber walls with high-set strip windows. The low sweeping hipped rooflines with extended eaves, closely resembles Wright's Prairie house designs in Oak Park Chicago.</p> <p>The building was modified externally and internally in the 1980s by Lindsay Little and Associates, Architects, for Mr. & Mrs B.C.McCallion, an insurance company executive.</p> <p>Additional modifications were made to the kitchen and living room by later owners.</p>				
Physical condition and Archaeological potential	<p>The property is in good physical condition both internally and externally.</p> <p>Archaeological potential LOW</p>				
Construction years	Start year 1885	1962	Finish year	1963	Circa <input type="checkbox"/>
Modifications and dates	<p>The building was modified externally and internally in the 1980s by Lindsay Little and Associates, Architects, for Mr. & Mrs B.C.McCallion, an insurance company executive.</p> <p>Modifications included:</p>				



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76

	<p>Additional bedroom and ensuite behind garage; One window blocked to create pantry; New ceiling to kitchen and new kitchen fit-out; The glazed gallery extended with new windows to create a family room; Living room ceiling lined with plasterboard, removal of fitted seating and new fireplace fitted; External door added to bedroom 2 to create study; Dividing wall between bedroom 3 & 4 removed to create TV lounge; Modifications to ensuite</p> <p>Additional modifications were made to the kitchen and living room by later owners.</p>
Further comments	<p>A number of modifications have been made internally, these changes however, are largely of a type that have not created a negative impact on the significance of the building.</p> <p>The reinstatement of elements such as the timber lined ceiling to living/dining room would add greatly to the intact nature of the building.</p>

HISTORY

Historical notes	<p>In 1962 No.2 Wirra Close, was purchased by William George Sherington, a Company Director and owner of Ford Sherington Pty. Ltd., manufacturers of 'modern lightweight luggage' including the well known Globite brand.</p> <p>"The Sherington House" was designed in 1962 by Bruce Robertson of Robertson & Hindmarsh Architects and Builders.</p>
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THEMES

State historical theme	<p>Housing Land Tenure Townships</p>
Local historical theme	<p>Suburban Consolidation</p>

APPLICATION OF CRITERIA

Historical significance SHR criteria (a)	<p>Example of early housing in the development of the new suburb of St. Ives. Example of the influence of Frank Lloyd Wright's "Organic architecture" in the 'Romantic' designs of the Post-War architects of the 'Sydney School' in the 1950s and 1960s.</p>
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77

Historical association significance SHR criteria (b)	The building has some historical association significance as the home of William George Sherington, owner and company director of Ford Sherington Pty. Ltd., manufacturers of modern lightweight luggage including the well known "Globeite" brand.
Aesthetic significance SHR criteria (c)	Landmark significance at the entry to the Torokina Avenue Estate Group. While not constructed as part of the Torokina Estate Group "The Sherington house" identifies the move towards "organic architecture" of the Post-War Sydney School architects and the direction of housing in the Post-War development of Sydney's new suburbs.
Social significance SHR criteria (d)	
Technical/Research significance SHR criteria (e)	Interesting technical /research significance in the ventilated roof design of the main pavilion.
Rarity SHR criteria (f)	One of two designs influenced by the "Prairie Style" of Frank Lloyd Wright's early house designs and the first of two similar buildings designed by Bruce Robertson in this style
Representativeness SHR criteria (g)	Representative significance as an example of the variety of "Sydney School" styles of architecture favoured by the upper-middle class or artistically nonconformist client of the late 1950s and early 1960s.
Integrity	The exterior of the house retains its original integrity with form, layout and style unchanged by later modifications. Some integrity of the interior has been lost by internal modifications but restoration of the existing living room timber ceiling would restore much of this loss of significant fabric



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HERITAGE LISTINGS	
Heritage listing/s	Ku-ring-gai Council Local Environmental Plan, Heritage Schedule

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Article	Australian House and Garden Magazine, Gordon & Gotch, Melbourne	"Fine Décor justifies a Good Plan; Architect Bruce Robertson has this logical solution for privacy on a corner site",	Feb. 1964	Ku-ring-gai Council
'Statement in Support of Deletion of a Heritage Item	Stass, Robert, Noel Bell Ridley Smith & Partners,	'Statement in Support of Deletion of a Heritage Item Listed in Schedule 7 of Ku-ring-gai Planning Scheme Ordinance,	April 2003.	Ku-ring-gai Council
Statement of Significance	Edwards, Zeny	A Report of the Heritage Significance of Sherington House, 2 Wirra Close, St. Ives,	4 th march. 2005	Ku-ring-gai Council
Publication	Irving, Robert	<i>The History and Design of the Australian House</i>	1985	Oxford University Press, Melbourne
Publication	O'Gorman, James F.,	<i>Three American Architects, Richardson, Sullivan and Wright, 1865-1915</i>	1991	The University of Chicago Press, Chicago
Publication	Sprague, Paul E.	<i>Guide to Frank Lloyd Wright & Prairie School Architecture in Oak Park</i>	1986	Oak Park Bi-centennial Commission of the American Revolution, Fifth Edition. The Village of Oak Park



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RECOMMENDATIONS	
Recommendations	<p>"The Sherington House" at 2 Wirra Close is one of a number of Sydney residences designed in the "Prairie Style" by the architect Bruce Robertson of Robertson and Hindmarsh. The house is in a largely intact condition externally and still located in its original curtilage and surrounding gardens which are now somewhat overgrown.</p> <p>This house, along with Bruce Robertson's other "Prairie Style" design at Turramurra are fine and rare examples within the Ku-ring-gai municipality of a residential building which was strongly influenced by the philosophy of the early nineteenth century American architect Frank Lloyd Wright. The character of this building is reflective of the "Prairie Style" made famous by Frank Lloyd Wright in Chicago and the West Coast of America in the early decades of the twentieth century.</p> <p>The site known as 2 Wirra Close has previously been listed on Schedule 7 of the Ku-ring-gai Planning Ordinance as part of the Torokina Avenue Group. 2 Wirra Close certainly has some connection with the Torokina Avenue Estate Group from the inclusion of the site as part of the Torokina Avenue Estate subdivision. However, even with this link, "The Sherington House" is obviously an individual item of significance which was designed and constructed well in advance of building construction on the adjoining subdivision. Consideration should therefore be given to re-listing by Ku-ring-gai Council as an individual heritage item in its own right.</p> <p>Taking into consideration the context of the property and the assessed significance of the extant building identified within this report it is also considered appropriate that first floor additions may be possible in areas that will not have a negative impact on the overall character of the building.</p> <p>Consideration should be given to allowing alterations and additions at the far eastern end of the garage wing. Consideration should be given to allowing an upper floor addition of sympathetic design and complimentary fabric located over the existing garage pavilion and an additional wing to further enclose the courtyard.</p> <ul style="list-style-type: none"> • "The Sherington House" should be retained as an item of significance within the suburb of St. Ives. The extant building should be retained largely in its original form and detail as a single storey dwelling addressing this corner of Wirra Close • "The Sherington House" should be retained as a largely intact external example of a simple mid century suburban house strongly influenced by the Prairie Style made famous in the early 1900s by the North American Architect, Frank Lloyd Wright. • "The Sherington House" should be retained as an isolated building on its original corner allotment with any modifications or upper floor additions restricted to the far (garage) end of the eastern wing of the extant house. • The quality of design and original fabric of the interior, particularly the large open plan living /dining area with high vaulted timber clad ceiling and the focus of the interior towards the internal courtyard, appears to have remained largely intact if modified. As it has been indicated in the "Staas Report" that the original timber ceiling is intact under the later plasterboard ceiling lining, reinstatement of this significant element would add greatly to the integrity and intactness of the building. A heritage assessment of the interior should be made prior to any decision on the type and extent of redevelopment that the building could sustain. • "The Sherington House" should be retained as a significant landmark element in its own right.



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RECOMMENDATIONS

Recommendations

"The Sherington House" at 2 Wirra Close is one of a number of Sydney residences designed in the "Prairie Style" by the architect Bruce Robertson of Robertson and Hindmarsh. The house is in a largely intact condition externally and still located in its original curtilage and surrounding gardens which are now somewhat overgrown.

This house, along with Bruce Robertson's other "Prairie Style" design at Turramurra are fine and rare examples within the Ku-ring-gai municipality of a residential building which was strongly influenced by the philosophy of the early nineteenth century American architect Frank Lloyd Wright. The character of this building is reflective of the "Prairie Style" made famous by Frank Lloyd Wright in Chicago and the West Coast of America in the early decades of the twentieth century.

The site known as 2 Wirra Close has previously been listed on Schedule 7 of the Ku-ring-gai Planning Ordinance as part of the Torokina Avenue Group. 2 Wirra Close certainly has some connection with the Torokina Avenue Estate Group from the inclusion of the site as part of the Torokina Avenue Estate subdivision. However, even with this link, "The Sherington House" is obviously an individual item of significance which was designed and constructed well in advance of building construction on the adjoining subdivision. Consideration should therefore be given to re-listing by Ku-ring-gai Council as an individual heritage item in its own right.

Taking into consideration the context of the property and the assessed significance of the extant building identified within this report it is also considered appropriate that first floor additions may be possible in areas that will not have a negative impact on the overall character of the building.

Consideration should be given to allowing alterations and additions at the far eastern end of the garage wing. Consideration should be given to allowing an upper floor addition of sympathetic design and complimentary fabric located over the existing garage pavilion and an additional wing to further enclose the courtyard.

- "The Sherington House" should be retained as an item of significance within the suburb of St. Ives. The extant building should be retained largely in its original form and detail as a single storey dwelling addressing this corner of Wirra Close
- "The Sherington House" should be retained as a largely intact external example of a simple mid century suburban house strongly influenced by the Prairie Style made famous in the early 1900s by the North American Architect, Frank Lloyd Wright.
- "The Sherington House" should be retained as an isolated building on its original corner allotment with any modifications or upper floor additions restricted to the far (garage) end of the eastern wing of the extant house.
- The quality of design and original fabric of the interior, particularly the large open plan living /dining area with high vaulted timber clad ceiling and the focus of the interior towards the internal courtyard, appears to have remained largely intact if modified. As it has been indicated in the "Staas Report" that the original timber ceiling is intact under the later plasterboard ceiling lining, reinstatement of this significant element would add greatly to the integrity and intactness of the building. A heritage assessment of the interior should be made prior to any decision on the type and extent of redevelopment that the building could sustain.
- "The Sherington House" should be retained as a significant landmark element in its own right.



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	<ul style="list-style-type: none"> • "The Sherington house" should be retained as a significant item defining the entrance to the Torokina Avenue Estate Group
--	---

SOURCE OF THIS INFORMATION			
Name of study or report	Heritage Study of the Municipality of Ku-ring-gai 1997	Year of study or report	1997
Item number in study or report	Item No. 18: 002		
Author of study or report	Glen Cowell		
Inspected by	Glen Cowell , Glen Cowell Heritage Services Pty. Ltd.		
NSW Heritage Manual guidelines used?		Yes	<input type="checkbox"/>
This form completed by	Glen Cowell	Date	June 2005



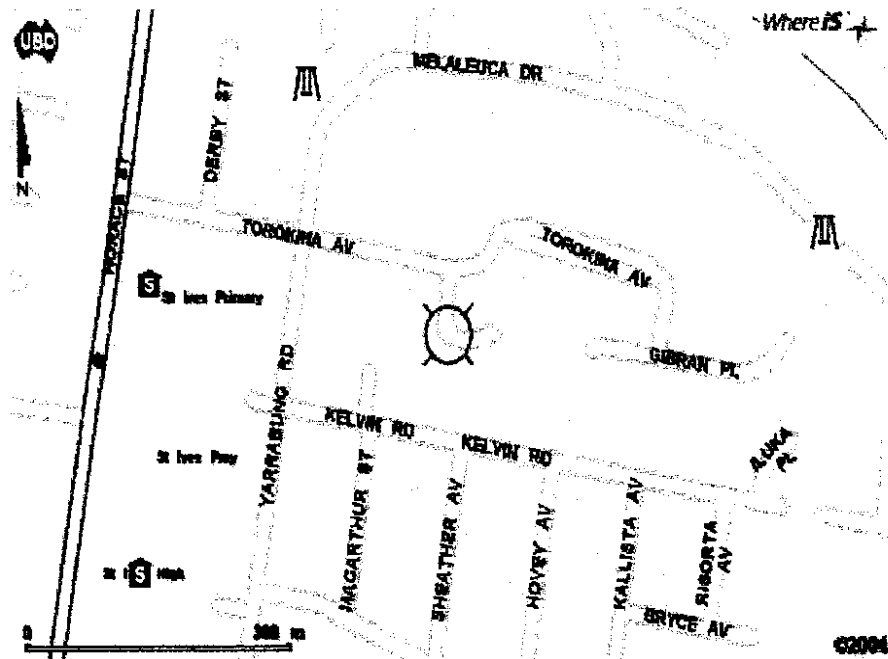
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IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	2 Wirra Close St. Ives, location plan				
Image year	2005	Image by		Image copyright holder	

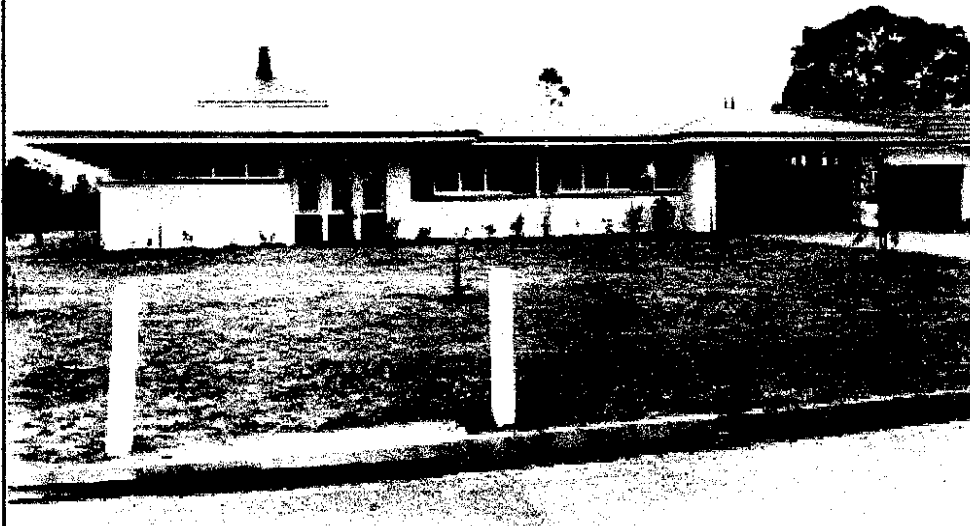


2 Wirra Close St. Ives, Location map



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2 Wirra Close St Ives: Architect's photographs, 1963
Southern facade
Robertson & Hindmarsh



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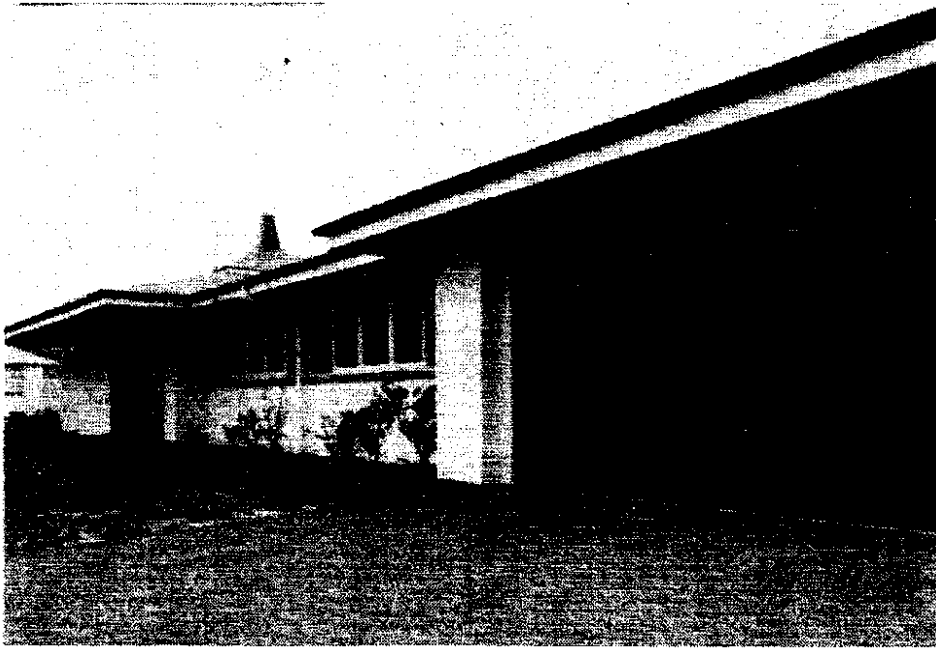


2 Wirra Close St Ives: Architect's photographs, 1963
Southern facade
Robertson & Hindmarsh



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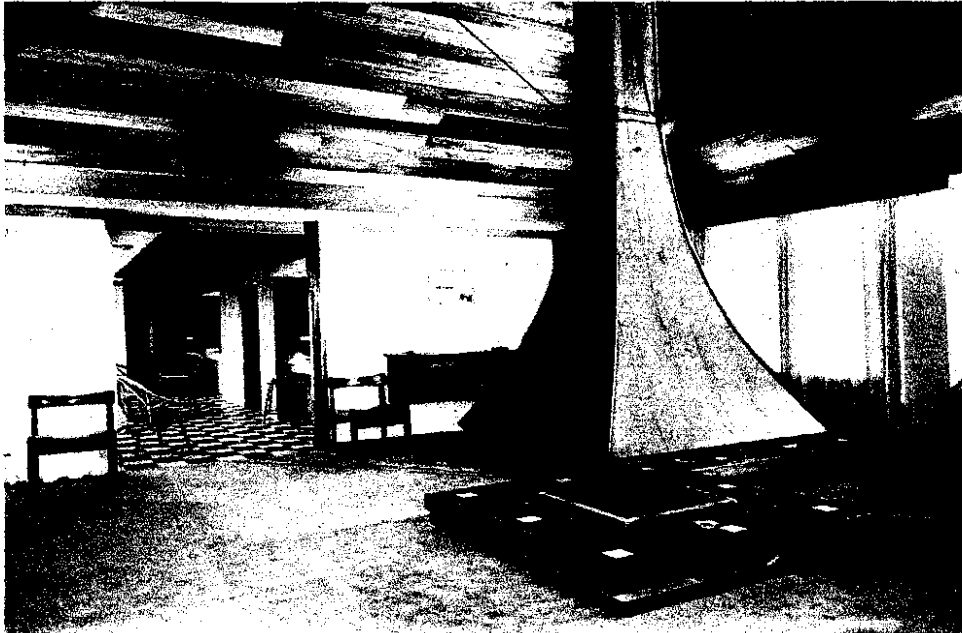


2 Wirra Close, St. Ives: Architect's photograph 1963
Southern facade



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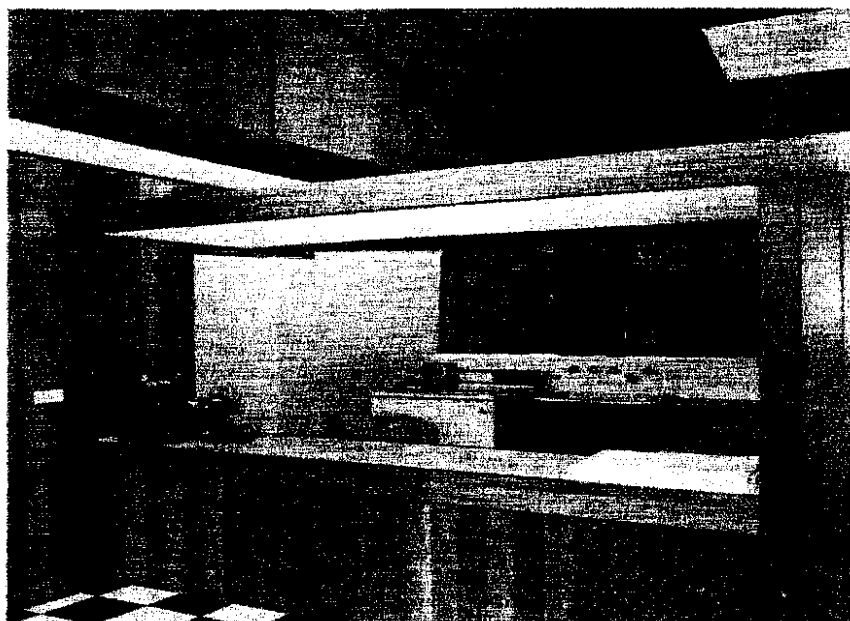


2 Wirra Close St Ives: Architect's photograph 1963
Interior Living/Dining showing fireplace & copper hood



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87
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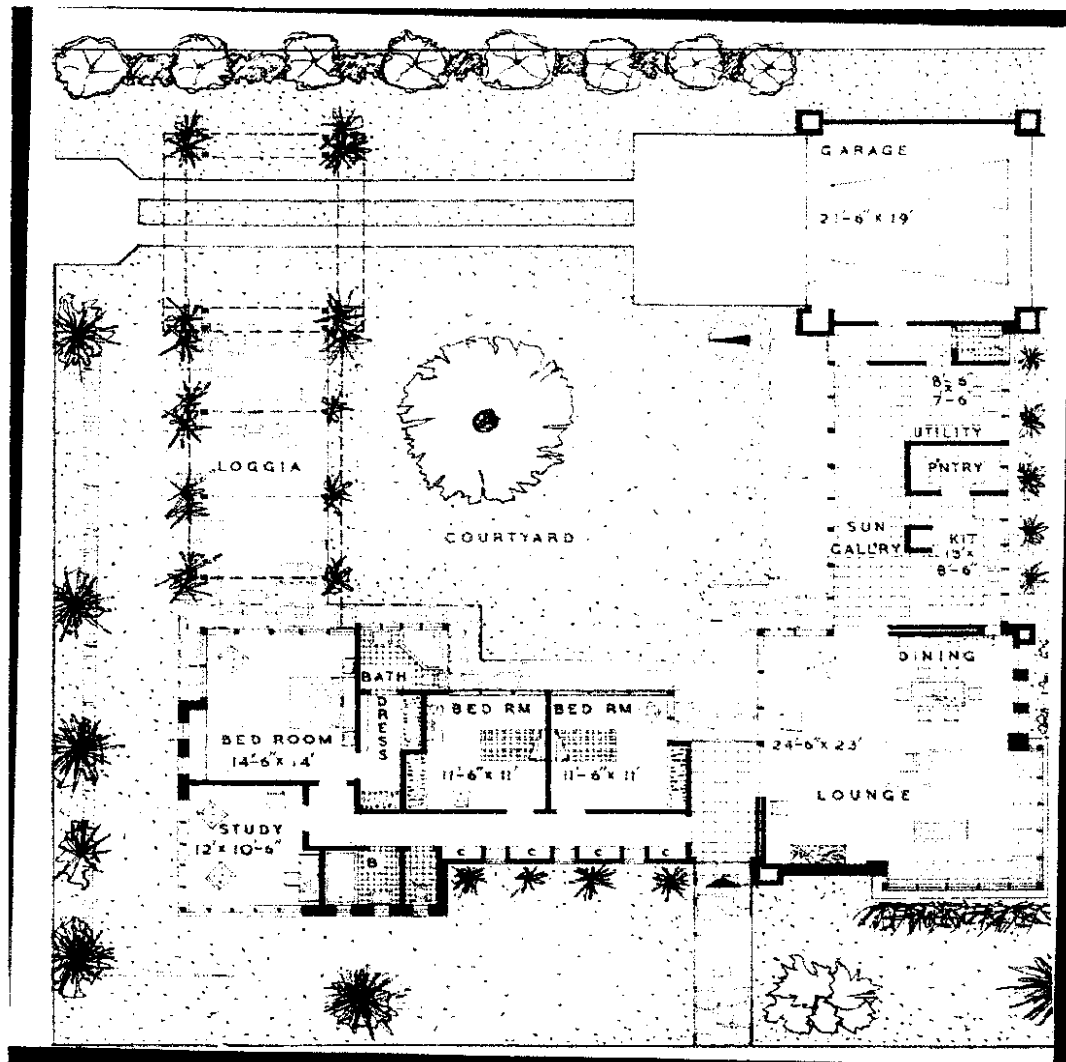


2 Wirra Close, St. Ives: Architect's photographs 1963
Looking into laundry from gallery



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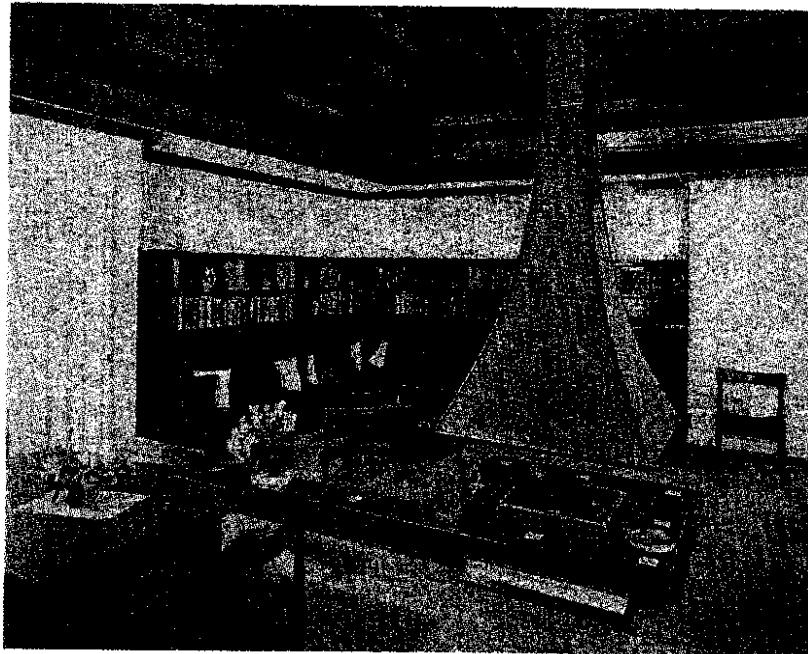


2 Wirra Close, St. Ives: Architect's photograph 1963
Plan of house
Robertson & Hindmarsh



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Architect's Photograph: Sherington House living room interior



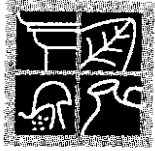
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Architect's photographs: Sherington House Kitchen & Gallery



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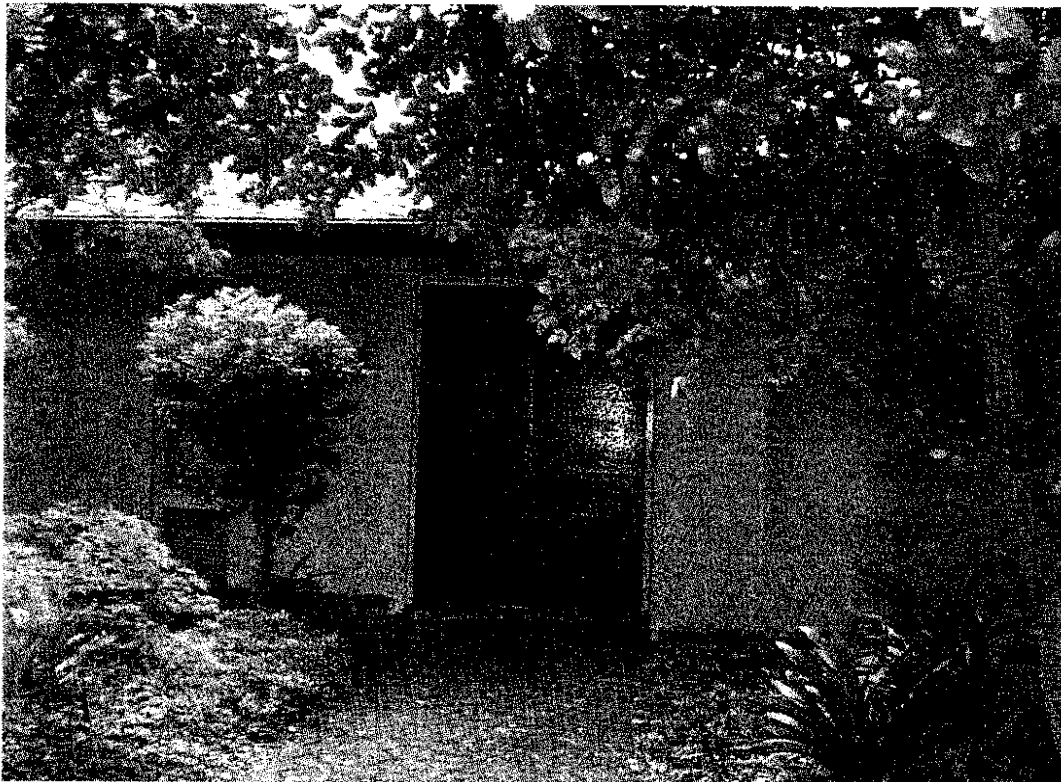


2 Wirra Close, St. Ives
corner of house showing ventilation roof and central chimney,
asbestos tiles, strip windows, wide eaves and sandstone sills
May 2005



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2 Wirra Close, St. Ives
Western façade with modified copper plated front door
May 2005



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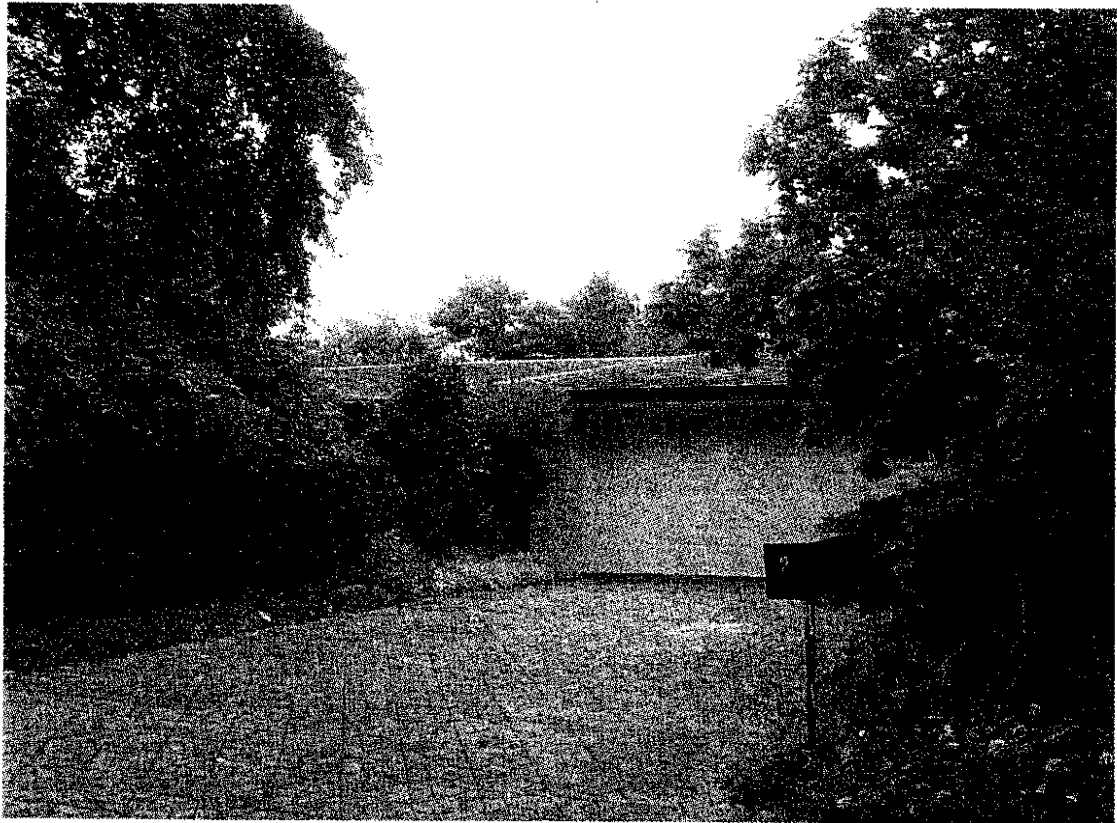


2 Wirra Close, St. Ives
North western corner of house through mature plantings
Showing modified window walls with doors
May 2005

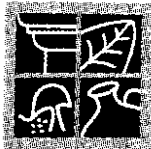


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2 Wirra Close, St. Ives
Garage on south facade of house
May 2005



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Single storey brick house on northern corner of entrance to Torokina Avenue Estate
opposite 2 Wirra Close.
Lot 1 DP 238226



NSW
Heritage Office

3 Marist Place
Parramatta NSW 2150
Locked Bag 5020
Parramatta NSW 2124
DX 8225 PARRAMATTA

Telephone: 61 2 9873 8500
Facsimile: 61 2 9873 8599
heritageoffice@heritage.nsw.gov.au
www.heritage.nsw.gov.au

The General Manager
Ku-ring-gai Council
818 Pacific Highway
GORDON 2072



Contact: Gary Pringle
Telephone: 02-98738564
pringlg@heritage.nsw.gov.au
File: H98/00259/001
Our Ref: HRL36132
Your Ref: P51789 & P53370

Dear Sir

**DRAFT KU-RING-GAI LOCAL ENVIRONMENTAL PLAN (AMENDMENT No.33)
S.62 CONSULTATION
Attention: Louise O'Flynn**

Thank you for your letter of 8 August 2005 referring the above mentioned draft Local Environmental Plan (LEP) to the NSW Heritage Office for comment. The draft Plan has been reviewed and the following advice is provided under section 63 of the Environmental Planning and Assessment Act.

It is noted that the draft plan proposes to remove two heritage items from Schedule 7 to the Ku-ring-gai Planning Scheme Ordinance. It is also understood that one of the items has been destroyed by fire and the other has been approved for demolition following the required consultation with the Heritage Council.

On this basis the Heritage Office raises no objection to the provisions of the draft plan and there is no need for further referral of the draft plan to the Heritage Office during its exhibition.

For any further contact in relation to this matter please phone Gary Pringle on (02) 98738564.

Yours faithfully

Vincent Sicari 13/09/05

**VINCENT SICARI
Principal Heritage Officer**

Draft Ku-ring-gai (Heritage Conservation) Local Environmental Plan 33

1. Name of plan

This plan is *Draft Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 33*.

2. Aims of plan

This plan aims to amend the *Ku-ring-gai Planning Scheme Ordinance* so as:

- (a) to remove two (2) properties from Schedule 7 (Heritage Items) of the Ordinance and to the supporting heritage map, and

3. Land to which plan applies

- (1) In respect of the aim set out in clause 2 (a), this plan applies to land known as 23 Memorial Avenue and 4 Munderah Street, as shown edged heavy black on the map marked "Draft Ku-ring-gai Amending Local Environmental Plan No 33 deposited in the office of the Council of Ku-ring-gai.

4. Amendment of Ku-ring-gai Planning Scheme Ordinance

The *Ku-ring-gai Planning Scheme Ordinance* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 4)

[1] Clause 4 Interpretation

Insert in appropriate order in the definition of *Heritage Map* in clause 4 (1):

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 33

[2] Schedule 7 Heritage Items

Omit:

Memorial Avenue	23
-----------------	----

Munderah Street	4
-----------------	---

ENVIRONMENTAL PLANNING & ASSESSMENT ACT,1979
KU-RING-GAI COUNCIL
DRAFT KU-RING-GAI (HERITAGE CONSERVATION) L.E.P. NO.33



WAHROONGA



ST IVES

NORTH



REMOVE FORM KU-RING-GAI PLANNING SCHEME ORDINANCE

DRAWN BY: COUNCIL'S CORPORATE MAPPING SYSTEM

PLANNING OFFICER ANTONY FABBRO

COUNCIL FILE NO.

DEPT. FILE NO.

CERTIFICATE ISSUED UNDER SEC.65 E.P.A.ACT DATE

GOVT. GAZETTE NO. DATE

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMENDS THE KU-RING-GAI PLANNING SCHEME ORDINANCE

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS.

GENERAL MANAGER DATE

DRAFT (HERITAGE CONSERVATION) LOCAL ENVIRONMENTAL PLAN NO 34 - 51 BILLYARD AVENUE, WAHROONGA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider Draft (Heritage Conservation) Local Environmental Plan No 34 - 51 Billyard Avenue, Wahroonga (DLEP) following public exhibition.
BACKGROUND:	On 23 August 2005 Council resolved to prepare a Local Environmental Plan to include the property at 51 Billyard Avenue, Wahroonga as an item of heritage significance in Schedule 7 (Heritage Items) of the Kuring-gai Planning Scheme Ordinance (KPSO). DLEP 34 was then place on public exhibition from 16 September 2005 to 13 October 2005.
COMMENTS:	The purpose of this report is to review DLEP 134 for the proposed inclusion of the property at 51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage Items) of the KPSO at the end of the exhibition period. No submissions were received from the general public and one submission was made by the NSW Heritage Office who raised no objection to DLEP 34.
RECOMMENDATION:	That Council adopt Draft (Heritage Conservation) Local Environmental Plan No 34 - 51 Billyard Avenue, Wahroonga and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with a request that the Plan be made.

PURPOSE OF REPORT

For Council to consider Draft (Heritage Conservation) Local Environmental Plan No 34 - 51 Billyard Avenue, Wahroonga (DLEP) following public exhibition.

BACKGROUND

51 Billyard Avenue, Wahroonga is a two storey residence located at the rear of a large landscaped allotment. The building is constructed of red textured brick with render detailing and is designed in the Inter-War Georgian Revival style with strong reference to the then popular 'modern' style.

At its meeting on 20th July 2004 Council approved a subdivision of the site from one lot into three lots. To date the subdivision has not been finalised. Council further received a Development Application for the demolition of the existing dwelling and the proposed construction of a detached dual occupancy development on Lot 1 – 51 Billyard Avenue, Wahroonga. On 20th April 2005 Council received confirmation that the applicant wished to withdraw the development application.

Council engaged Glen Cowell Heritage Services Pty Ltd to prepare an assessment of significance for 51 Billyard Avenue to determine whether consideration should be given to whether the building should be listed under Schedule 7 of the KPSO. The report identified the property as being of some historical, aesthetic, technical/research and local significance and recommended "the subject building be retained as a reflection of the stylistic changes faced by the architect of the period and the way that these challenges were overcome".

On 23 August 2005 a report (**Attachment 1**) went to Council recommending that a Local Environmental Plan be prepared to include the property at 51 Billyard Avenue, Wahroonga as an item of heritage significance in Schedule 7 (Heritage Items) in the KPSO. At this meeting Council resolved:

- A. *That Council prepare a draft Heritage Local Environmental Plan to include the property at 49 to 51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage items) of the Ku-ring-gai Planning Scheme Ordinance.*
- B. *That Council notify the Department of Infrastructure, Planning and Natural Resources of its intension to prepare a draft amending Local Environmental Plan and draft Heritage Local Environmental Plan in accordance with Section 54 of the Environmental Planning & Assessment Act (EP&A Act) 1979 and notify relevant authorities in accordance with Section 62 of the EP&A Act 1979.*
- C. *That Council notify the owner 49 to 51 Billyard Avenue, Wahroonga and all affected properties of its relevant decision.*
- D. *That the draft Heritage Local Environmental Plan be placed on exhibition in accordance with the requirements of the EP&A Act 1979 and Regulations.*
- E. *That a report be brought back to Council at the end of the exhibition period.*

The owner of 51 Billyard Avenue, Wahroonga and all affected residents were notified in writing of the Draft Plan and its exhibition from 16 September to 13 October 2005 and the opportunity to make written submissions to Council.

COMMENTS

The purpose of this report is to review DLEP 34 for the proposed inclusion of the property at 51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage Items) of the KPSO at the end of the public exhibition period.

Consultation

Notification under Section 54 of the Environmental Planning and Assessment Act 1974 (EP&A Act) was made to the Department of Planning and Section 62 notification to the NSW Heritage Office on 30 August 2005. In a letter received from the Heritage Office on 16 September 2005 (**Attachment 2**), it was stated that the Heritage Office raises no objection to the provisions of the draft plan.

Draft (Heritage Conservation) Local Environmental Plan No 34 (**Attachment 3**) was placed on formal public exhibition at the Customer Service Centre and Council's Turramurra and Cordon Libraries and Council's website from 16 September to 13 October 2005. Affected property owners were also notified in writing of the exhibition of the Draft Plan and were invited to make submissions. No submissions were made during the exhibition period.

Prior to this report going to Council the owners of 51 Billyard Avenue, Wahroonga and all affected residents also notified about the Draft Plans public exhibition period in September were notified in writing of the report going to this meeting.

Public Submissions

Given that no submissions were received from the general public during the exhibition period and the Heritage Office raised no concerns in relation to draft LEP 34 it is considered that there is no objection to the Draft Plan to include 51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage Items) of the KPSO.

CONSULTATION

There has been consultation with the Department of Planning in accordance with Section 54 of the EP&A Act 1979. Consultation was undertaken with relevant authorities in accordance with section 62 of the EP&A Act 1979, namely the NSW Heritage Office. No correspondence was received from the Department of Planning in relation to DLEP 34, while the Heritage Office raised no objection to including 51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage Items) in the KPSO.

FINANCIAL CONSIDERATIONS

The preparation, exhibition and assessment of Draft (Heritage Conservation) Local Environmental Plan No 34 are covered by the Urban Planning budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has been undertaken with Council's Heritage Advisor in consideration of DLEP 34 and the proposed listing of the property at 51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage Items) of the KPSO. Council's Advisor has also reviewed the independent Assessment of Significance prepared for 51 Billyard Avenue, Wahroonga.

SUMMARY

Council engaged an independent consultant to conduct an assessment of significance for the property known as 49-51 Billyard Avenue, Wahroonga to determine whether the property should be listed under Schedule 7 of the KPSO. The heritage assessment recommended that consideration be given to listing the building on the Ku-ring-gai Planning Scheme Ordinance as a heritage item of local significance, with retention as a single residential unit on its subdivided allotment.

On 23 August 2005 Council resolved to prepare a Local Environmental Plan to include the property at 51 Billyard Avenue, Wahroonga as an item of heritage significance in Schedule 7 (Heritage Items) of the KPSO. DLEP 34 was then placed on public exhibition from 16 September to 13 October 2005, no submissions were received during the exhibition period therefore it is considered that there is no objection to DLEP 34 to include 51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage Items) of the KPSO.

The Department of Planning and the NSW Heritage Office were also notified of DLEP 34 on 30 August 2005. In a letter received from the Heritage Office on 16 September 2005, it was stated that the Heritage Office raises no objection to the provisions of the draft plan. Draft LEP No.34 was publicly exhibited. No submissions were received

It is recommended that Council adopt Draft (Heritage Conservation) LEP No 34 and submit it to the Minister for approval and gazettal.

RECOMMENDATION

- A. That Council adopts Draft (Heritage Conservation) Local Environmental Plan No 34 – 51 Billyard Avenue, Wahroonga and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with a request that he makes the Plan.
- B. That Council notifies the NSW Heritage Office advising them of Council's decision.

C. That Council notifies all affected residents of its decision.

Louise O'Flynn
Heritage Planner

Antony Fabbro
**Manager
Urban Planning**

Steven head
**Director
Open Space and Planning**

Attachments: **1 - Copy of officers report to Council on 23 August 2005 - 524735**
 2 - Copy of NSW Heritage Office letter dated 13 September 2005 - 534546
 3 - Copy of DLEP 34 and map - 549042 & 549043

49 TO 51 BILLYARD AVENUE, WAHROONGA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider the inclusion of 49-51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance.

BACKGROUND:

Council recently approved a subdivision of the property known as 49-51 Billyard Avenue, Wahroonga and has identified the property as an item of potential heritage significance. Council engaged Glen Cowell Heritage Services to prepare an assessment of significance for the property at 49-51 Billyard Avenue to determine whether the property should be listed as a heritage item in Schedule 7 of the KPSO. Since engaging the consultant, a new DA has been lodged with Council to add a carport to the property, alter the existing pool, revise the interior layout, remove the parapets and put a new roof on the house and render the dwelling.

COMMENTS:

The assessment of significance completed by the consultant recommends that the identified significance of 49-51 Billyard Avenue, Wahroonga finds the property to exhibit some historical, aesthetic, technical/research and social significance. The assessment findings warrant the properties listing as an item of heritage significance in Schedule 7 of the KPSO.

RECOMMENDATION:

That Council prepare a Local Environmental Plan to amend the Ku-ring-gai Planning Scheme Ordinance (KPSO) to include 49-51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage Items) of the KPSO.

PURPOSE OF REPORT

For Council to consider the inclusion of 49-51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance.

BACKGROUND

49-51 Billyard Avenue, Wahroonga is a two storey residence located at the rear of a large landscaped allotment. The building is constructed of red textured brick with render detailing and is designed in the Inter-War Georgian Revival style with strong reference to the then popular 'modern' style.

At its meeting on 20 July 2004 Council approved a subdivision of the site from one lot into three lots. Council further received a Development Application for the demolition of the existing dwelling and the proposed construction of a detached dual occupancy development on Lot 1 – 49-51 Billyard Avenue, Wahroonga. On 20 April 2005 Council received confirmation that the applicant wished to withdraw the development application.

Council engaged Glen Cowell Heritage Services Pty Ltd to prepare an assessment of significance for 49-51 Billyard Avenue to determine whether consideration should be given to whether the building should be listed under Schedule 7 of the KPSO. Since engaging the consultant, a new DA has been lodged with Council to add a carport to the property, alter the existing pool, revise the interior layout, remove the parapets and put a new roof on the house and render the dwelling.

COMMENTS

History of the Site

49-51 Billyard Avenue, Wahroonga lies within the original land grant to John Terry Hughes. The area was originally developed as farmland. The area in the immediate vicinity of the site is dominated by remnant stands of indigenous trees including Sydney Blue Gum, Turpentine and Angophora.

The subject site was once part of the 'Vanceville Estate' and created as part of a 1927 subdivision. A small parcel of land was added to the subject site prior to 1938 to form a "T" shaped allotment. The house itself at No. 49-51 Billyard Avenue is thought to have been constructed c.1937-1938 as it appears in a Water Board map of 1938.

The owner of the site at the time of construction was a Sydney architect known as Hunt who designed the house at 49-51 Billyard Avenue and the residence at 47 Billyard Avenue. During the 1980s the subject property was home to television identity Mike Willesee. The garden has on several occasions been open to the public during the Knox Open Garden events.

See **Attachment 1** for more detailed information on the history of the site.

Item 12

P34936
1 August 2005**The Current Context**

Council has approved the subdivision of 49-51 Billyard Avenue from one lot into three allotments. The approved Development Application retains the existing residence on a reduced allotment. The subdivision allows the retention of the house within a reasonable amount of original curtilage and would result in the preservation of the building within a substantial portion of its original grounds. A Development Application has been lodged with Council to make alterations to the subject property including the construction of a carport, alterations to the existing pool, revising the interior layout of the dwelling, removing the parapets and replacing the existing roof and rendering the dwelling.

The Existing Building

Glen Cowell Heritage Services assessment of the significance found 49-51 Billyard Avenue to be a:

...substantial two storey red face brick residence originally designed in a traditional style combining Inter-War Georgian Style with detailing influenced by the modern Inter-War Functionalist Style. The style of the building appears to have been transitional with strong references to the Georgian style in the choice of fabric (heavily textured red face bricks and red tiled hip roof)...

The consultant concludes that 49-51 Billyard Avenue has never been identified as a significant element within the Wahroonga precinct, largely due to its location at the rear of the large site and being largely hidden by the heavily planted gardens. For a more in depth description of the style of the building and its exterior, refer to **Attachment 1**.

Statement Of Significance

The assessment of significance found the subject property to be of some historical, aesthetic, technical/research and social significance. The assessment noted that the residence is significant for the following reasons:

“No. 49-51 Billyard Avenue, Wahroonga is significant as part of the early residential development of the suburb of Wahroonga during the 1930s when the construction of large houses on large landscaped allotments was at its peak...The building in its expansive landscaped grounds has significance as a reflection of the quality of residence which was being constructed in Wahroonga at this time.

....although having undergone some modifications to the original building, remains largely intact externally with its original stylistic detailing of parapeted roof and textured brick facades. The extant building has historic and aesthetic significance as a largely intact example of a transitional style which evolved from the desire of young Sydney architects to design houses in the new modern style, set against a growing movement within local government to ban flat roofed residences. The parapeted hip roof of this Inter-War Georgian Revival building reflects the conflict faced by architect and client who desired a residence in the starkly modern Inter-War Functionalist or Post-War International styles.

Item 12

P34936
1 August 2005

The building has some social significance as one of the early large residences in the district. The building also has social significance as the home of the well known television presenter Mike Willesee during the 1980s.

The largely intact and mature gardens surrounding the house are significant as the original curtilage to this early 20th Century residence. The stand of native trees along the Billyard Avenue boundary are significant as remnants of the original native trees prior to development of the area”.

Recommendations

The Assessment of significance recommends that the subject building be retained as a reflection of the stylistic challenges faced by the architect of the period and that:

- Consideration should be given to listing No. 49-51 Billyard Avenue, Wahroonga on the Kuring-gai Planning Scheme Ordinance as an item of cultural heritage of local significance
- Retention of the extant building in its present form and fabric as a single residential unit in a reduced curtilage is recommended. Removal of the extant roof parapet or painting or rendering of the external face brick facades should not be allowed.
- Consideration should be given to internal modification to the extant building as long as these changes do not impact on the external style, detailing and fabric of the extant building
- No. 49-51 Billyard Avenue, Wahroonga should be retained as an isolated building on a separate, if reduced, garden allotment. Existing terraced gardens should be retained intact. Driveways and garaging should be kept to a minimum and retained where possible in the original location within the subdivided allotment.
- The reduced curtilage of No 49-51 Billyard Avenue, Wahroonga should be retained as an individual allotment with no future option for Dual Occupancy subdivision.
- Retention of original landscape plantings throughout the subdivided sites is recommended where appropriate, with retention of the stand of remnant native trees within the street frontage allotment as a minimum requirement. A landscape plan identifying significant mature plantings to be retained should be required prior to any excavation of the subdivided allotments.

CONSULTATION

No public consultation has been undertaken to date, however should a draft Heritage LEP be prepared for 49-51 Billyard Avenue, Wahroonga, public consultation will take place during the exhibition of the draft policy.

FINANCIAL CONSIDERATIONS

Item 12

P34936
1 August 2005

All financial costs associated with the preparation of an amending LEP and the inclusion of 49-51 Billyard Avenue into the KPSO through a draft Heritage Local environmental Plan are covered by the Urban Planning budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

There has been consultation with Council's Heritage Advisor in relation to each of the subject properties, his comments assisted in determining Council's opinion on the matter.

SUMMARY

Council engaged an independent consultant Glen to conduct an assessment of significance for the property known as 49-51 Billyard Avenue, Wahroonga to determine whether the property should be listed under Schedule 7 of the KPSO. The heritage assessment recommended that consideration be given to listing the building on the Ku-ring-gai Planning Scheme Ordinance as a heritage item of local significance, with retention as a single residential unit on its subdivided allotment.

RECOMMENDATION

- A. That Council prepares a draft Heritage Local Environmental Plan to include the property at 49-51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage items) of the Ku-ring-gai Planning Scheme Ordinance.
- B. That Council notifies the Department of Infrastructure, Planning and Natural Resources of its intension to prepare a draft amending Local Environmental Plan and draft Heritage Local Environmental Plan in accordance with Section 54 of the Environmental Planning & Assessment Act (EP&A Act) 1979 and notify relevant authorities in accordance with Section 62 of the EP&A Act 1979.
- C. That Council notifies the owner 49-51 Billyard Avenue, Wahroonga and all affected properties of its relevant decision.
- D. That the draft Heritage Local Environmental Plan be placed on exhibition in accordance with the requirements of the EP&A Act 1979 and Regulations.
- E. That a report be brought back to Council at the end of the exhibition period.

Louise O'Flynn
Heritage Planner

Antony Fabbro
Manager Urban Planning

Steven Head
Director Open Space and
Planning

Attachments: Attachment 1 - Glen Cowell, Heritage Consultant - Heritage Assessment of 49-51 Billyard Avenue, Wahroonga - No 516154
Attachment 2 - Glen Cowell, Heritage Consultant, NSW State Heritage

Inventory Form for 49-51 Billyard Avenue, Wahroonga - No 516155

OFFICER'S REPORT



NSW
Heritage Office

3 Marist Place
Parramatta NSW 2150
Locked Bag 5020
Parramatta NSW 2124
DX 8225 PARRAMATTA

Telephone: 61 2 9873 8500
Facsimile: 61 2 9873 8599
heritageoffice@heritage.nsw.gov.au
www.heritage.nsw.gov.au

The General Manager
Ku-ring-gai Council
818 Pacific Highway
GORDON 2072



Contact: Gary Pringle
Telephone: 02-98738564
pringlg@heritage.nsw.gov.au
File: H98/00259/001
Our Ref: HRL36404
Your Ref: P34936

Dear Sir

**DRAFT KU-RING-GAI LOCAL ENVIRONMENTAL PLAN (AMENDMENT No.34) -
49/51 BILLYARD AVE WAROONGAH - S.62 CONSULTATION
Attention: Louise O'Flynn**

Thank you for your letter of 30 August 2005 referring the above mentioned draft local environmental plan (LEP) to the NSW Heritage Office for comment. The draft Plan has been reviewed and the following advice is provided under section 63 of the Environmental Planning and Assessment Act.

It is noted that the draft plan proposes to add a heritage item to Schedule 7 to the Ku-ring-gai Planning Scheme Ordinance. It is also noted that the significance of the proposed heritage item, known as 49-51 Billyard Avenue Waroongah, has been documented.

Section 84(1) of the NSW Heritage Act requires that any local environmental plan that will apply to land on which an item of environmental heritage is situated must contain provisions to facilitate the conservation of the building, work, relic, place or precinct. As the draft Plan will result in the conservation of an item that has been assessed as having heritage significance, no objection is raised to the content and intent of the draft LEP.

There is no need for further referral of the draft plan to the Heritage Office during its exhibition, but if amendments are made following the consideration of submissions it would be appreciated if further consultation with this Office could occur at that stage.

For any further contact in relation to this matter please phone Gary Pringle on (02) 98738564.

Yours faithfully



13/09/05

VINCENT SICARI
Principal Heritage Officer

Draft Ku-ring-gai (Heritage Conservation) Local Environmental Plan 34

1. Name of plan

This plan is *Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 34*.

2. Aims of plan

This plan aims to amend the *Ku-ring-gai Planning Scheme Ordinance* so as:

- (a) to add one (1) property to Schedule 7 (Heritage Items) to the Ordinance and to the supporting heritage map, and

3. Land to which plan applies

- (1) In respect of the aim set out in clause 2 (a), this plan applies to land known as 51 Billyard Avenue Lot 1 DP 735609, as shown edged heavy black on the map marked “Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 34” deposited in the office of the Council of Ku-ring-gai.

4. Amendment of Ku-ring-gai Planning Scheme Ordinance

The *Ku-ring-gai Planning Scheme Ordinance* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 4)

[1] Clause 4 Interpretation

Insert in appropriate order in the definition of *Heritage Map* in clause 4 (1):

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 34

[2] Schedule 7 Heritage Items

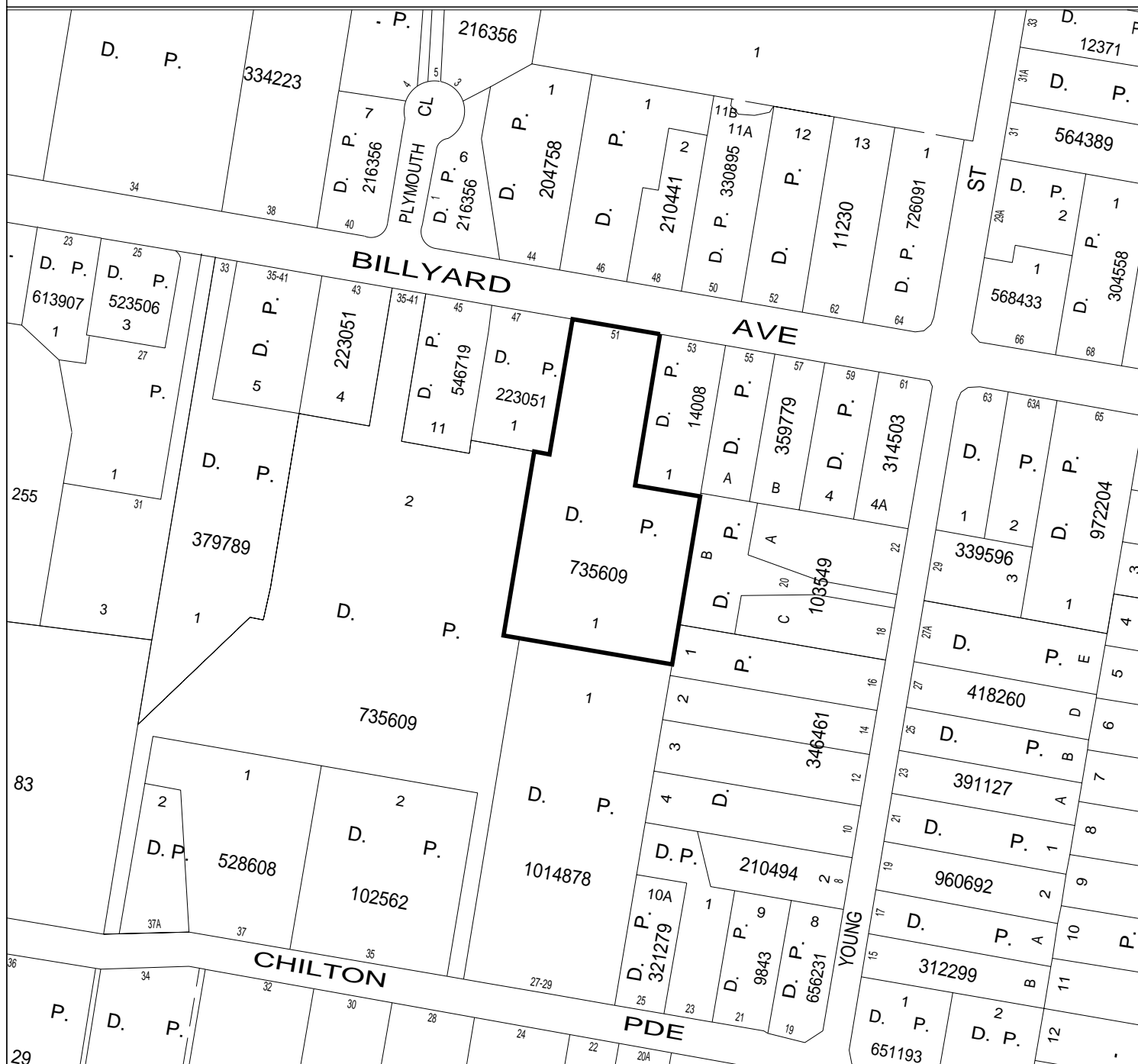
Insert in alphabetical order:

Billyard Avenue

ENVIRONMENTAL PLANNING & ASSESSMENT ACT,1979

KU-RING-GAI MUNICIPAL COUNCIL

DRAFT KU-RING-GAI (HERITAGE CONSERVATION) L. E. P. NO.34



NORTH



ITEM OF ENVIRONMENTAL HERITAGE

DRAWN BY: COUNCIL'S CORPORATE MAPPING SYSTEM

PLANNING OFFICER: ANTONY FABBRO

COUNCIL FILE NO.

DEPT. FILE NO.

CERTIFICATE ISSUED
UNDER SEC.65 E.P.A.ACT

DATE

GOVT. GAZETTE NO.

DATE

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMENDS THE KU-RING-GAI PLANNING SCHEME ORDINANCE

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS.

GENERAL MANAGER

DATE

DRAFT LOCAL ENVIRONMENTAL PLAN NO 207 - CONSIDERATION OF SUBMISSIONS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To consider the submissions made in respect of the exhibition of Draft Local Environmental Plan No 207 (DLEP207) and for Council to resolve the manner in which to finalise the Draft Plan.

BACKGROUND:

Council on 14 June 2005 resolved to prepare a Draft Local Environmental Plan for the rezoning of 11 Woniara Avenue, Wahroonga to 2(d3). DLEP207 has been prepared and exhibited in accordance with statutory requirements. Consultation under Section 62 of the Environmental Planning and Assessment Act was undertaken prior to exhibition.

COMMENTS:

Council undertook public exhibition of DLEP207 for the period 2 September to 30 September 2005. Council has received 2 submissions as discussed in this report. After consideration of submissions it is considered that Council should adopt the Plan.

RECOMMENDATION:

That Council resolve to adopt the final format of DLEP207 and forward it to the Minister with the request that it be gazetted.

PURPOSE OF REPORT

To consider the submissions made in respect of the exhibition of Draft Local Environmental Plan No 207 (DLEP207) and for Council to resolve the manner in which to finalise the Draft Plan.

BACKGROUND

Council on 14 June 2005 resolved to prepare a Draft Local Environmental Plan for the rezoning of 11 Woniora Avenue, Wahroonga to 2(d3). DLEP207 has been prepared and exhibited in accordance with statutory requirements. Consultation under Section 62 of the Environmental Planning and Assessment Act was undertaken prior to exhibition.

COMMENTS

DLEP207 proposes to rezone 11 Woniora Avenue to 2(d3) to be consistent with the zoning of the lands on either side. This will correct the current anomaly whereby the land is zoned 2(c) as a consequence of having been omitted from LEP194.

CONSULTATION

Consultation under Section 62

Prior to the exhibition of Draft LEP207 Council consulted with the relevant authorities under the provisions of Section 62 of the Environmental Planning and Assessment Act 1979 in respect of the Draft Plan. Council consulted the authorities as listed in **Attachment D**.

In response Council has received submissions as follows:-

NSW Heritage Office

The heritage Office has raised no objection to the Draft Plan. It recognises that the rezoning would have little additional impact to the heritage item diagonally opposite having regard for existing adjoining 2(d3) zoned lands. The Heritage Office submission is **Attachment A**.

Roads and Traffic Authority

No objection is raised by the RTA – **Attachment B**.

NSW Rural Fire Service

No objection is raised by the Service – **Attachment C**.

Item 10

S04393 P63533
19 October 2005

Public Submissions

In response to the public exhibition of the Draft LEP Council has received 2 submissions.

The first submission expressed support for the Draft LEP as a means of zoning the isolated block to be consistent with the land on either side.

The second submission did not specifically address the Draft LEP. It was concerned with the existing zoning arrangement whereby the 2(d3) boundary was defined by the rear fence line of properties at 13-19 Woniora Avenue instead of by a street. The submissions suggested that either the existing block bounded by Woniora Avenue / Coonanbarra Road / Burns Road be totally zoned as 2(d3) or it be returned entirely to the 2(c) zone.

Comment

It can be accepted that the respondent does not support a mid block change in zoning (at the rear fence) but it is not realistic for (2d3) zoned lands to revert back to a 2(c) zone. It is also not the subject of this Draft LEP to extend the 2(d3) zone to lands beyond Woniora Avenue.

FINANCIAL CONSIDERATIONS

Work undertaken on the Draft LEP relates to use of staff resources and cost of advertising and is covered by the Planning Department budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

There has been no specific consultation with other departments given the limited scope of the Draft LEP. It relates to one allotment and rationalises the zoning to match lands on either side.

SUMMARY

1. Draft LEP 207 has been publicly exhibited in accordance with statutory requirements. Two submissions were received with one in support of the Draft Plan and one objecting. The objection primarily related to broader planning matters which are not the subject of the Draft Plan.
2. There have been no objectives raised to the Draft Plan from the 3 Authorities who responded to the Section 62 notification.
3. The Draft Plan will correct an anomaly caused by the gazettal of Local Environmental Plan No 194. Under the Plan the zoning of 11 Woniora Avenue, Wahroonga will be rationalised to be consistent with the 2(d3) zoning of the adjoining properties on either side so the northern side of Woniora Avenue will have the one zoning.
4. It is recommended that Council adopt Draft LEP 207 as exhibited and seek its gazettal.

RECOMMENDATION

- A. That Council adopt Draft Local Environmental Plan 207 as exhibited.
- B. That Draft Local Environmental Plan No 207 as adopted, the Council Planning report and details of submissions be forwarded to the Department of Planning in accordance with Section 68(4) of the Environmental Planning and Assessment Act 1979.
- C. That Council request the gazettal of Draft Local Environmental Plan No 207 as adopted.
- D. That all parties who made submissions and those whose lands are the subject of Draft Local Environmental Plan 207 be advised of Council's resolution.

Rod Starr
Senior Urban Planner

Antony Fabbro
Manager
Urban Planning

Steven Head
Director
Open Space and Planning

Attachments:

- A - Section 62 Submission from NSW Heritage Office - 524882**
- B - Section 62 Submission from RTA - 517643**
- C - Section 62 Submission from NSW Rural Fire Service - 521008**
- D - Authorities consulted under Section 62 - 378658**
- E - Draft LEP 207 as exhibited - 511983**



NSW
Heritage Office

3 Marist Place
Parramatta NSW 2150
Locked Bag 5020
Parramatta NSW 2124
DX 8225 PARRAMATTA

Telephone: 61 2 9873 8500
Facsimile: 61 2 9873 8599
heritageoffice@heritage.nsw.gov.au
www.heritage.nsw.gov.au

Contact: Gary Pringle
Telephone: 02-98738564
pringlg@heritage.nsw.gov.au
File: H98/00259/001
Our Ref: HRL35782
Your Ref: P63533

The General Manager
Ku-ring-gai Council
818 Pacific Highway
GORDON 2072

Dear Sir

**DRAFT KU-RING-GAI LOCAL ENVIRONMENTAL PLAN No. 207 – 11 WONIORA
AVE WAHROONGA - S.62 CONSULTATION
Attention: Rod Starr**

Thank you for your letter of 14 July 2005 referring the above mentioned draft Local Environmental Plan (LEP) to the NSW Heritage Office for comment. The draft Plan has been reviewed and the following advice is provided under section 63 of the Environmental Planning and Assessment Act.

It is noted that the draft LEP intends to rezone the land to which the plan applies to Residential 2(d3), consistent with the zoning of adjoining land. It is understood that the existing development on the land is in the form of town houses and the proposed zoning will permit medium density housing up to 5 storeys in height.

Section 84(1) of the Heritage Act requires that any local environmental plan that will apply to land on which an item of environmental heritage is situated must contain provisions to facilitate the conservation of the building, work, relic, place or precinct. It is understood that the existing development on the site is of little heritage significance. Although a heritage item is located diagonally opposite the land to which the plan applies any adverse heritage impact which could be created by development in accordance with the proposed zoning will be negligibly different to that which would be created by development already permissible within the 2(d3) zone.

On this basis, the Heritage Office does not raise objection to the draft plan and there is no need to return the draft LEP to the Heritage Office for comment unless the plan is further amended as a result of submissions received during the public exhibition period.

For further contact in relation to this matter please phone Gary Pringle on (02) 98738564.

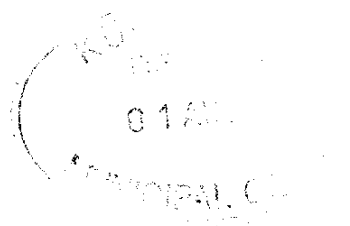
Yours faithfully

R. G. McDougall
REECE MCDUGALL
Director
17/8/05





Our Reference: 238.5314
Your Reference: P63533
Contact: Salih Suleiman
Telephone: 8814 2528
27 July 2005



The General Manager
Ku-ring-gai Municipal Council
DX 8703
GORDON

Attention: Rod Starr

Dear Sir,

**Ku-Ring-Gai Draft Local Environmental Plan No 207 – 11 Woniora Avenue,
Wahroonga, Section 62 notification**

I refer to your letter of 14 July 2005 advising of Council's resolution to prepare the above draft plan to amend the anomaly in the existing LEP.

The RTA has no objection to the proposed amendment.

Thank you for the opportunity to comment on the proposal and should you have further queries on this matter please contact Mr Salih Suleiman on 8814 2528.

Yours faithfully

Charles Wiafe
**Landuse Development Manager
Sydney Region**



All communications to be addressed to:

Head Office
NSW Rural Fire Service
Locked Mail Bag 17
Granville NSW 2142

Telephone: (02) 8741 5555
e-mail: danielle.simpson@rfs.nsw.gov.au

Head Office
NSW Rural Fire Service
15 Carter Street
Homebush Bay NSW 2127

Facsimile: (02) 8741 5550



The General Manager
Ku-ring-gai Council
Locked Bag 1056
Pymble NSW 2073

Your Ref: P63533
Our Ref: LEP/0072
A05/1292 DS

Attention: Rod Starr

1 August 2005

Dear Sir/Madam,

**Re: Ku-ring-gai Draft Local Environmental Plan No 207 – 11 Woniora Avenue,
Wahroonga**

I refer to your letter dated 14 July 2005 seeking our advice in accordance with Section 62 of the *Environmental Planning & Assessment Act 1979* for the above Local Environmental Plan (LEP) and apologise for the delay in responding.

The NSW Rural Fire Service (RFS) notes that the subject site is not identified as bush fire prone on the Ku-ring-gai Bush Fire Prone Land Map.

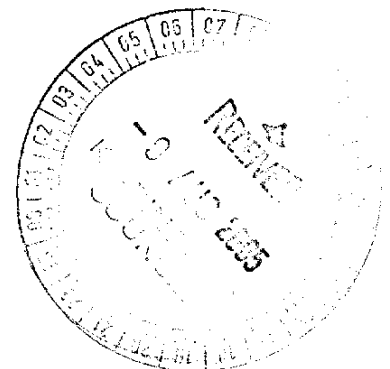
Based on the above and the information received for the proposal, the RFS raises no concerns or special consideration in relation to bushfire matters for the proposed LEP.

For any enquiries regarding this correspondence please contact Danielle Simpson.

Yours sincerely


Lew Short
Manager, Development Control Services





ORGANISATION	ADDRESS1	ADDRESS2	SUBURB	PHONE	WEB ADDRESS
National Parks and Wildlife Service	PO Box 1967		HURSTVILLE NSW 2220	9585 6444	www.npws.nsw.gov.au
Department of Transport (NSW)	GPO Box 1620		SYDNEY NSW 2001	9268 2800	www.transport.nsw.gov.au
Roads & Traffic Authority	Manager Transport Planning	PO Box 558	BLACKTOWN NSW 2148		www.rta.nsw.gov.au
State Transit Authority	219-241 Cleveland Street		STRAWBERRY HILLS NSW 2010	9245 5777	www.sta.nsw.gov.au
NSW Heritage Office	Locked Bag 5020		PARRAMATTA NSW 2124	9873 8500	www.heritage.nsw.gov.au
Sydney Water	Planning Branch	16 th Floor, 115-123 Bathurst Street	SYDNEY NSW 2000	132092	www.sydneywater.com.au
Energy Australia	GPO Box 4009		SYDNEY NSW 2000	9269 2830	www.energy.com.au
Department of Land and Water Conservation	PO Box 3720		PARRAMATTA NSW 224	9895 7281	www.dlwc.nsw.gov.au
Board of Fire Commissioners	227 Elizabeth Street		SYDNEY NSW 2000	9265 2999	www.nswfb.nsw.gov.au
Department of Education and Training	GPO Box 33		SYDNEY NSW 2001	9561 8000	www.det.nsw.edu.au
Department of Health	Locked Bag 961		NORTH SYDNEY NSW 2059	9391 9000	www.health.nsw.gov.au
Sydney Catchment Management Authority	PO Box 323		PENRITH NSW 2750	4752 2100	www.sca.nsw.gov.au
Department of Housing	21 – 31 Moore Street		LIVERPOOL NSW 2170	9821 6111	www.housing.nsw.gov.au
Environment Australia	GPO Box 787		CANBERRA ACT 2600		www.environment.gov.au
Department of Aging and Disability	Level 13	83 Clarence Street	SYDNEY NSW 2000	8270 2000	www.add.nsw.gov.au
Department of State &	PO Box N818	Grosvenor Place	SYDNEY NSW	9228 3111	www.business.nsw.gov.au

Regional Services			2000		
Hornsby Shire Council	PO Box 37		HORNSBY NSW 1630	9847 6666	www.hornsby.nsw.gov.au
Warringah Shire Council	Civic Centre	Pittwater Road	DEE WHY NSW 2099	9942 2111	www.warringah.nsw.gov.au
Ryde City Council	Locked Bag 2069		NORTH RYDE NSW 1670	9952 8222	www.ryde.nsw.gov.au
Willoughby City Council	PO Box 57		CHATSWOOD NSW 2057	9777 1000	www.willoughby.nsw.gov.au
National Trust of Australia	GPO Box 518		SYDNEY NSW 2001	9258 0123	www.nsw.nationaltrust.org.au
Ms M O'Leary	St Ives Chamber of Commerce	192C Mona Vale Road	ST IVES NSW 2075		
Mr G Gordon Fuller	Wahroonga Chamber of Commerce	PO Box 54	WAHROONGA NSW 2076		
Mrs Margaret Thomas	Turramurra Chamber of Commerce	PO Box 51	TURRAMURRA NSW 2074		
Mr Brian Austin	Gordon Chamber of Commerce	PO Box 53	GORDON NSW 2072		
Mr Michael Cross	Lindfield Chamber of Commerce	Lindfield Pharmacy, 316 Pacific Highway	LINDFIELD NSW 2070		
Mr Barry O'Farrell	Member for Kuring-gai	772 Pacific Highway	GORDON NSW 2072	9499 2280	
Dr Brendan Nelson	Member for Bradfield	Suite 8 12-16 Tryon Road	LINDFIELD NSW 2070	9416 4044	
NSW Heritage Office	Locked Bag 5020		PARRAMATTA NSW 2124	9873 8500	www.heritage.nsw.gov.au

Draft Ku-ring-gai Local Environmental Plan 207
under the Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Ku-ring-gai Local Environmental Plan 207*.

2 Aims of plan

This plan aims to rezone certain land to Zone No 2(d3) under the *Ku-ring-gai Planning Scheme Ordinance (the Ordinance)*.

3 Land to which plan applies

This plan applies to land fronting 11 Woniora Avenue, Wahroonga, as shown coloured light scarlet with dark red edging and lettered “2(d3)” on the map marked “Ku-ring-gai Local Environmental Plan No 207” deposited in the office of Ku-ring-gai Council.

4 Amendment of Ku-ring-gai Planning Scheme Ordinance

The *Ku-ring-gai Planning Scheme Ordinance* is amended as set out in Schedule 1.

Schedule 1 Amendments

[1] Clause 4 Interpretation

Insert in appropriate order in the definition of **Scheme map** in clause 4(1):

Ku-ring-gai Local Environmental Plan No 207.

COUNCIL SUBMISSION ON DRAFT STANDARD LEP

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To seek Council endorsement of a submission to the Department of Planning on the Draft Standard Local Environmental Plan.

BACKGROUND:

As part of the State's planning system reforms, the Department of Planning has prepared a draft standard local environmental plan (LEP). The draft standard LEP was on public exhibition from 20 September 2005 until Friday 28 October 2005.

COMMENTS:

Ku-ring-gai is required to use the standard LEP as a basis for preparing a new comprehensive local plan within 5 years. Town centre plans being developed as Stage 2 of Council's Residential Development Strategy will need to be prepared in the new template format.

Council officers have prepared a submission on the draft standard LEP which raises a number of issues and concerns. A copy of the draft submission was forwarded to the Department of Planning on 4 November 2005.

RECOMMENDATION:

That Council endorse the submission on the draft Standard Local Environmental Plan as included in Attachment A.

That a copy of the final submission be forwarded to the Department of Planning.

PURPOSE OF REPORT

To seek Council endorsement of a submission to the Department of Planning on the Draft Standard Local Environmental Plan.

BACKGROUND

As part of the State's planning system reforms, the Department of Planning has prepared a draft standard local environmental plan (LEP). This has resulted from a Government review of statutory and strategic plan making in NSW that concluded it was necessary to simplify and improve planning by introducing a set of common provisions and terminology to enable government, industry and the community to better understand the plans. The Standard LEP allows councils to create and customise provisions to address local issues within their area.

The Department of Planning intends that every local council prepares a new LEP for its area over the next five years.

The Draft LEP Template was on public exhibition from 20 September 2005 until Friday 28th October 2005. Submissions were to be received by 4 November 2005, however, where Council meetings are being held after this date, a draft submission was to be forwarded to the Department and a final version submitted following a Council resolution on the matter. Ku-ring-gai Council has already submitted a draft set of comments.

COMMENTS

Draft Standard LEP

The draft Standard LEP comprises the following:

Zones: At present there are up to 3,100 land use zonings used by councils across NSW. The Standard LEP will create twenty-five (25) zones which councils can then tailor by adding additional uses and objectives in response to local needs.

Land Use Matrix or Land Use Table: The Department will mandate that certain land uses are permissible or prohibited in particular zones, but Councils will be able to determine if they will be permissible with or without consent unless otherwise specified in the draft Standard LEP. Councils will be able to determine if other land uses are permissible or prohibited. Councils would be able to insert additional land uses as needed. For the purposes of exhibition, both a land use matrix and a land use table have been included to allow comment on the merits of each option. Only one will be included in the final Standard LEP.

Planning Provisions: The draft Standard LEP provides standard provisions for a variety of development categories such as subdivision, heritage conservation, tree preservation, outdoor advertising and excavation and filling of land. Many of the standard provisions are required to be

Item 11

S04541
20 October 2005

incorporated into LEPs and others are optional. Some of the standard provisions have been taken from existing State Environmental Planning Policies and Ministerial Directions. In preparing their LEP, councils may also add provisions, provided they are justified and not inconsistent with any mandatory provisions.

Definitions: The draft Standard LEP dictionary contains 244 standard definitions. The entire dictionary will be required to be included in all Councils' LEPs. Councils can add definitions to the dictionary, provided the definition is not adequately addressed by an existing definition, however, a new definition will be added to LEPs statewide.

Standard Format: The draft Standard LEP provides a format that must be adopted for all new principle LEPs in NSW. Provisions common to each LEP will be located in the same place in all LEPs. The format is designed so that mandatory provisions can be updated simultaneously and consistently in all new LEPs.

Standard Numbering of Clauses: The draft Standard LEP specifies standard numbering of clauses to ensure that mandatory provisions are found in the same location in each LEP and so that they can be easily updated simultaneously.

State Environmental Planning Policies (SEPPs):

There have been a number of SEPPs that have been fully or partially incorporated into Standard LEP. These are:

- SEPP 1 - Development Standards;
- SEPP 9 - Group Homes;
- SEPP 21 - Caravan Parks;
- SEPP 36 - Manufactured Home Estates;
- SEPP 60 - Exempt and Complying Development
- SEPP 64 - Advertising and Signage; and
- SEPP 71 - Coastal protection.

The Department intends to progressively review all the SEPPs and Regional Environmental Plans (REPs) in order to rationalise the number of instruments. Components of these will be incorporated into the Standard LEP in the future.

Implications for Ku-ring-gai

Ku-ring-gai is required to prepare a new comprehensive local plan under the standard LEP within 5 years. However, the Town Centre plans being developed as Stage 2 of Council's Residential Development Strategy will need to be in the new standard LEP format.

In developing the LEPs for the town centres and the comprehensive local plan, Council needs to be aware of the limitations of providing for local variations to the standard LEP format.

Item 11

S04541
20 October 2005

Councils will **not** be able to:

- add zones
- prohibit uses that are mandated as permissible
- permit uses that are mandated as prohibited
- add provisions that are inconsistent with the Mandatory Provisions
- add definitions that are adequately addressed by an existing definition in the Dictionary
- change the standard clause numbering
- change the format.

Council officers have prepared a draft submission on the draft standard LEP which raise a number of issues and concerns. A copy of the draft submission was forwarded to the Department of Planning on 4 November 2005, subject to Council's endorsement of the submission. A copy of the draft submission forwarded to the department is included as **Attachment A** to this report.

CONSULTATION

The Draft LEP Template was on public exhibition from 20 September 2005 until Friday 28th October 2005. Councillors were provided a briefing on the draft standard LEP at the planning Committee on 17 October 2005.

A copy of the draft submission was circulated to Councillors on 25 October 2005 for comment. A copy of the draft submission was also placed on Council's website and community input sought.

FINANCIAL CONSIDERATIONS

Council is required to prepare a new comprehensive LEP to apply across the LGA within the next 5 years. This will be a major undertaking that will require council to allocate appropriate funding and resources.

Town centre plans being developed as Stage 2 of Council's RDS are required to be in the new template format. This has been included in the funding for RDS Stage 2.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Council's submission on the draft standard LEP has been prepared by officers in Planning and Environment in consultation with officers in Development and Regulation, Open Space, Community Services and Technical Services.

SUMMARY

As part of the State's planning system reforms, the Department of Planning has prepared a draft standard local environmental plan (LEP). The draft standard LEP was on public exhibition from 20 September 2005 until Friday 28th October 2005.

Item 11

S04541
20 October 2005

Ku-ring-gai is required to prepare a new comprehensive local plan under the standard LEP within 5 years. Town centre plans being developed as Stage 2 of Council's RDS will need to be in the new template format.

Council officers have prepared a draft submission on the draft standard LEP which raises a number of issues and concerns. A copy of the draft submission was forwarded to the Department of planning on 4 November 2005

RECOMMENDATION

- A. That Council endorse the submission on the draft Standard Local Environmental Plan as included in Attachment A.
- B. That a copy of the final submission be forwarded to the Department of Planning.

Craige Wyse
Senior Planner

Katherine Lustig
Environmental Planner

Antony Fabbro
Manager
Urban Planning

Steven Head
Director
Open Space and Planning

Attachments: **Attachment A - Draft Council Submission on Draft Standard Local Environmental Plan Template - 549100 (circulated separately)**

Draft Standard LEP template

Ku-ring-gai Council draft submission

The following comments on the draft Standard LEP, presently being exhibited by the Department of Planning, address a range of issues relevant to councils across NSW. The comments on each issue begin with concerns most pertinent to planning in Ku-ring-gai.

A. Format

Important issues for Ku-ring-gai Council

1. The LEP Template must be user-friendly for the wider community, not just planners. An LEP is used by a variety of stakeholders outside Council, including residents, developers and community groups.
2. A user-friendly and logical format for the draft Standard LEP would facilitate incorporation of local issues. Ku-ring-gai Council anticipates that its consolidated LEP will include a significant local-issues component.
3. The numbering system proposed by the Department of Planning requires that optional clauses omitted by councils be included with notes advising that the clause was not adopted and that additional clauses included by individual councils be numbered with the previous clause number and then letters of the alphabet. Would, for example, an additional local clause be referred to as Clause 50A (Ku-ring-gai) in one LGA and Clause 50A (Parramatta) in another? This system is a means of simplifying the Department's task in modifying LEPs across NSW, however, it may result in confusion. Clear explanations to the user will be essential.
4. A clearer framework for the aims of the LEPs in Clause 2 to ensure that all councils have aims that relate to state, regional and local planning objectives.

General issues

5. The land use objectives for each zone are listed separately to the land use permissibilities and prohibitions. In order to place sufficient emphasis on the need for applicants to achieve the objectives for each zone, it would be beneficial to include these with the land use information. This would not be possible if a land use matrix, rather than a table, were used.
6. The most commonly used miscellaneous standards are spread through Part 4 of the draft Standard LEP. Provisions that are common to most developments and that should be read together (such as building site coverage, preservation of trees and heritage conservation) should be provided earlier in the document. Standards relating to less common issues that are not relevant to most development proposals, such as development under flight paths, caravan parks, development in the coastal zone, development subject to airport noise, etc. should be included after the more common standards.
7. Owing to the separation in the Draft Standard LEP of subdivision and miscellaneous provisions, there are two sections in the Plan with provisions relating to caravan parks and manufactured home estates. This is not considered to be user friendly.

8. Clause 20 of the LEP Template states that land in any zone may be subdivided in accordance with the Plan and provides space for each council to insert minimum lot sizes for each zone. Exceptions to the standards are included at clauses 24 and 25, where they could easily be overlooked. It would be more user-friendly if exceptions to the standards were in the same clause as the standards to which they relate.
9. It is preferable that all exceptions to development requiring consent be included in the exempt development schedule rather than added as a note on the text or in a separate sub-clause. For instance, it is recommended that the details in clause 49(3) be located in Schedule 1 and that clause 49(2) be amended to read “a person must not, without development consent, carry out development for the purposes of an advertisement, unless development is exempt development as listed in Schedule 1”.
10. The draft Standard LEP states that exempt development (a) “must” meet certain criteria, (b) “must not” cause, be, create or require certain things, and (c) “cannot be carried out on” certain lands. In order to ensure that the LEP is easy to read, it is preferable that all standards listed together under the same sub-clause are read in a consistent manner, for example, “A development will be exempt development if -”. This also applies to complying development.
11. The Dictionary would be more appropriately located at the front of the document to enable greater ease of use.

B. Zones

Important issues for Ku-ring-gai Council

12. The differences between the intent, objectives and land use opportunities in the business zones are unclear. Neighbourhood Business, Local Centres and Mixed Use all serve the local community and no hierarchy (eg, regional, sub-regional, local or neighbourhood business) between them is evident. The objectives for Neighbourhood and Local Centres do not make provision for a residential component within these centres. This appears to be contrary to the Metropolitan Strategy.
13. The Department is aware that Ku-ring-gai Council is currently undertaking town centre planning which is likely to significantly alter the shape and form of a number of the town centres in Ku-ring-gai. Being able to specify desired land uses on certain parcels within a single zone and to prohibit others is critical if the process is to be effective. The draft Standard LEP does not presently appear to facilitate such a finely-tuned planning process.
14. It is unclear why “mixed use” has been included as a zone instead of a land use. Mixed use (eg, residential and commercial in one building) may be appropriate in a range of business zones.
15. The small number of residential zones could effectively reduce development potential of land across Sydney. This is because councils will tend to minimise the extent of development allowed in lower density zones, for example, by prohibiting dual occupancy development so as not to compromise the character of certain areas, whereas dual occupancies would be appropriate in some low density areas. By increasing the number of residential zones, the Department would more effectively ensure that councils are able to preserve important local character and enable urban consolidation in others. An alternative would be a mechanism to control or restrict land uses in different areas or parcels of land within a single zone. This could be achieved through a mapping process.
16. Many of the objectives included in the draft Standard LEP are not meaningful and do not provide direction to councils or the community. For example, the primary objective for

Local Open Space – Private is “to enable land to be used for private open space, recreational and associated purposes”. A zone’s name cannot be an objective in itself; an objective must provide *additional* information to indicate how development should be undertaken on the land. In the example of Local Open Space – Private, a more appropriate objective would be “recreational choice for the community”.

17. In 2004, Ku-ring-gai Council, in consultation with DIPNR, developed a Riparian Policy which prohibits most development within a certain distance of riparian land. Three categories of riparian land were mapped: Environmental Corridor (highly sensitive); Terrestrial and Aquatic Habitat (medium sensitivity); and Bank Stability and Water Quality Zone (low sensitivity). For each riparian category, a minimum distance setback is specified within which most development is not permissible (50 metres, 30 metres and 10 metres, respectively). This is not, however, presently incorporated into any environmental planning instrument.

Development on riparian land has a direct influence on the adjacent waterbody and the two therefore need to be managed in an integrated manner. Rather than setting development standards for the actual waterway and a separate set of development controls for land immediately adjacent to the waterway (riparian land), it would be preferable if Council were able to have a single zone referred to as Waterbodies and Riparian Land which is for environmental protection purposes. This would more effectively incorporate the Riparian Policy, reduce the number of maps to which people need to refer and make the development assessment process more efficient. Further, as Ku-ring-gai’s riparian lands mapping was only recently undertaken with DIPNR, it is considered that such a zone would be consistent with State Government priorities.

In order to more effectively incorporate Council’s Riparian Policy (including the mapping) into the development assessment process, it would also be helpful if the LEP Template allowed relevant information to be included in the LEP at clause 52.

18. The Waterways / Watercourses zone is proposed as an environmental protection zone in the draft Standard LEP, which is consistent with the provisions in Clause 52. The objectives of this zone, specifically *(b) to ensure the navigability of waterways*, and *(c) to provide for water-based and foreshore development that will contribute to the recreational and tourism potential of the locality*, promote activities that could compromise the ability of councils to protect the environmental heritage of waterways and riparian areas. If these activities are to be permitted in environmental protection areas, the objectives must clearly state that the activities must not compromise the conservation objective (a), however, it is preferable to keep conservation areas separate to zones with development potential.
19. The distinction between the proposed “special uses” and “infrastructure” zones is unclear. Further direction needs to be provided on how these zones should be applied.

General issues

20. It would be logical to include a zone called Unzoned Land, particularly so that public utility installations and public utility undertakings may be undertaken without consent.

C. Land use controls

Important issues for Ku-ring-gai Council

21. Ku-ring-gai Council considers that a **land use table** is preferable to a land use matrix as there is less room for error in either creating or reading a table and because it allows more information to be included (eg, qualifications about permissible land uses). A land use table is also easier to read and allows for zone objectives to be included in the same location as

land use opportunities. A matrix could be useful as a part of a practice note / hand-out or as an attachment to the LEP, but would not be appropriate as the primary source of information on permitted and prohibited development.

22. If a land use matrix is used, a clause would be required to specify how land uses not mentioned in the matrix would be treated – ie, either all prohibited or all permissible with consent.
23. Mandating a particular land use as permissible or prohibited right across the State in any particular zone is not always an effective means of achieving state objectives. Only land uses that are critical for the achievement of State objectives should be mandated as permissible or prohibited by the Department.
24. The draft template proposes **prohibiting agriculture in the Local Open Space – Public** zone, whereas the template allows each council to decide whether to permit or prohibit such a use in the Natural Areas zone. Land that is reserved under the *National Parks and Wildlife Act 1974* would generally be environmentally sensitive, whereas this is not necessarily the case with Local Open Space – Public. Natural Areas zoned land should not be used for agriculture, whether commercial (as defined in the Dictionary) or otherwise.
25. The draft template proposes **prohibiting commercial premises, community facilities or restaurants in the Local Open Space – Public** zone. It is not unusual for local parks to contain cafeterias, scout / guide halls, community halls, temporary stalls and the like, which attract the community to the area. It is unclear why such reasonable uses of the land should be prohibited in public open space and yet permissible in national parks.
26. The Draft LEP Template proposes that no **exempt development** may be carried out on land within a heritage conservation area or on the site of a listed or interim heritage item. This would necessitate lodgement of a full development application for minor or routine works (such as recladding, erection of a cubby house or erection of an awning that cannot be seen from a public area) and would place an unnecessary burden on councils and the community. While some development in heritage areas / properties would be inappropriate without consent, many forms of development are not. It would therefore be preferable that restrictions on development within a heritage conservation area or on land that contains a heritage item be determined according to the development proposed by including the standards within Schedule 1 rather than as an overall standard for all exempt development.
27. The LEP Template needs to include additional development standards for **exempt development**. Specifically, exempt development must:
 - comply fully with any other relevant requirements and standards in any other environmental planning instrument or development control plan applying to the land on which it is proposed to be carried out;
 - not contravene any condition of development consent applying to the land;
 - not require the cutting down, topping, lopping, pruning, removing, injuring or wilful destruction of any tree to which the relevant tree preservation order / DCP (as determined by the LEP) applies. (It is not sufficient to state that a tree cannot be removed.);
 - not obstruct the drainage of the site on which it is carried out or in any way affect the drainage of neighbouring properties; and
 - not restrict vehicular or pedestrian access to or from the site.
28. The Draft Template proposes that **complying development** may not be carried out on land within a heritage conservation area. This would necessitate lodgement of a development application for some works that do not require merit assessment such as special events and internal alterations to commercial premises. While some development certainly requires

merit assessment by Council if it is located in a heritage conservation area (for example, a driveway), some does not. It would therefore be preferable that restrictions on development within a heritage conservation area be included as standards within Schedule 2 rather than as an overall standard for all complying development.

29. The LEP Template needs to include additional development standards for **complying development**. Specifically, complying development must:
- comply fully with any other relevant requirements and standards in any other environmental planning instrument or development control plan applying to the land on which it is proposed to be carried out;
 - not contravene any condition of development consent applying to the land;
 - not require the cutting down, topping, lopping, pruning, removing, injuring or wilful destruction of any tree to which the relevant tree preservation order / DCP (as determined by the LEP) applies; and
 - not create interference with the neighbourhood because it is noisy, causes vibrations, creates smells, fumes, smoke, vapour, steam, soot, ash, dust, waste water, grit or oil.

General issues

30. It is considered that shops should be permissible within the Regional Open Space zone if they are ancillary to the use of the open space, for example shops containing information and souvenirs related to a park.
31. The draft Standard LEP presently makes a distinction between **home occupation** and **home industry**. There is often considerable overlap between the two. It is recommended that they be combined into a single land use such as **home based business**.
32. The issue of **existing use rights** has not been addressed. Where definitions of land use in a council's new LEP are not consistent with a previous definition under which consent was granted, significant issues could arise, particularly where it is not possible to extinguish existing rights on particular sites. The LEP template should provide some mechanism to extinguish use rights where necessary to ensure desired planning outcomes.

D. Mapping

Important issues for Ku-ring-gai Council

33. It is extremely important that councils may add map layers as this enables site-specific planning. Maps are generally considered to be an effective means of communicating specific information about individual properties. Further, given the limited number of zones proposed, councils would need to use mapping to ensure that land uses are appropriate to the sites on which they are permissible. For example, in Ku-ring-gai, bushfire is an extremely important consideration in planning and development. An area that is generally suitable for a particular zoning may have bushfire-prone areas within it in which certain higher-risk land uses are not appropriate. Ku-ring-gai Council presently uses mapping to limit such development and would seek to continue to do so in the future.

Other issues that would require mapping include heritage conservation areas, heritage items, riparian corridors (as discussed elsewhere in this submission), significant vegetation and finer-grained land use standards, for example in mixed use zones.

E. Provisions

Important issues for Ku-ring-gai Council

34. **Clauses 19(2) and (3)** specify that consent is not required for some subdivision. Particular concern is raised about this in relation to strata subdivision as it could result in a range of problems including insufficient parking provisions in commercial areas and loss of communal open spaces.
35. The development standards in **Clause 20** (lot size) and **Clause 38** (floor space ratio) must specify that calculations for battle-axe or hatchet shaped allotments are to exclude any area of access way, right-of-carriageway or the like. This should also be the case for Clause 47 (building site coverage), however, driveways in any part of the site other than an accessway to a battleaxe allotment must be part of any calculation, particularly because the stormwater management for the site will often be strongly relate to building site coverage.
36. Ku-ring-gai's current LEP 194 (relating to medium density residential development) limits the top storey of any building of three storeys or more to 60% of the floor below. This is considered important for good built form / character outcomes. **Clause 37** of the draft Standard LEP makes no provision for inclusion of such a clause. To introduce such a clause through a DCP could be problematic as it may be seen as contradicting the height standards in the LEP.
37. **Clause 43** seeks to enable flexibility in the use of land near zone boundaries. While this is generally considered to be a commendable means of enabling councils to achieve planning objectives, the following comments are offered:
 - An objective for this clause is needed to clarify its purpose.
 - The draft Standard LEP allows each council to specify a distance within which the provision may apply. It is recommended that the Department specify a range of distances that are appropriate for the clause so as to ensure that the zoning table does not lose its value in the planning process.
 - The clause should be amended to also require any development of a site under this clause to be compatible with the planning objectives of the zone and the objectives of the LEP as a whole. Specifically, development undertaken using this clause must be transitional development between zones (eg, stepping down between building height and bulk). It must not be possible to use the clause as a means of extending the zone boundaries.
 - The clause must contain provisions to ensure that development to which this clause applies does not result in isolation or reduced development potential of other properties.
 - The clause must not apply to all zones, particularly not environmental protection zones.
 - This clause should be included immediately after the zoning table so that it clearly relates to that information.
38. Where consent is required for an activity, this fact should be noted in the zoning table together with the list of all other development that requires consent so as to ensure that this fact is clear to the user of the document. It is confusing to include additional detail in miscellaneous clauses, such as:
 - a. **Clause 44** – consent required for excavation and fill
 - b. **Clause 49** - consent required for outdoor advertising

It is also not appropriate to specify that consent is not required if the activity is of a “minor nature”, as “minor” is subjective. Most councils already have more appropriate controls in their exempt and complying development provisions and should be allowed to use these in their new LEPs.

39. Adoption of a new LEP template provides an opportunity to clarify how councils can protect vegetation and when consent may be granted to undertake works where vegetation currently exists. Unfortunately, **Clause 46** does not achieve this, largely because it proposes two means by which tree works may be approved, namely development consent or granting of a permit (except on heritage sites where a permit cannot be issued):
- Subclause 46(3) indicates that the primary list of protected vegetation and information about when a permit needs to be issued are to be contained in a DCP. It is unclear how this would function in relation to a tree preservation order. This part also only refers to tree species, kind or size, and does not allow for other reasons for preserving a tree, for example locality. It also does not leave room for interpretation that suggests exemptions owing to matters such as dead branches, overhanging branches, proximity to buildings, etc.
 - Some sub-clauses in clause 46 (4, 5 and 7) mention permits while others (4 and 8) refer to development consent. It is unclear if refusal to issue a permit is the same as refusal to grant consent and whether an applicant would have the same appeal rights under both.
 - Although specific mention is made of a permit, the template does not refer to the legislation under which such a permit may be issued. If a permit is to be issued under a tree preservation order, the LEP template must be modified to provide for the making of a tree preservation order under the LEP. In the event that a tree preservation order could be created under the LEP, it is still unclear how an order could protect trees that are defined for protection under a DCP.
 - It is recommended that tree works approval be a single process under the Act (ie, either development consent or a permit).
40. **Clause 46(6)** precludes Council from protecting a dead tree that may be important as habitat for another species. In order to adequately conserve biodiversity, Council must be able to refuse consent / not permit removal of dead and dying trees that are potential or actual habitat. If no application need be made to the council for removal of such a tree, it is not possible to ascertain that the council agrees that the tree is dead, dying or dangerous.
41. **Clause 46(7)** states that a development application is always required when a tree that is, forms part of or is in the vicinity of a heritage item is to be removed, lopped, etc.:
- This is not consistent with 48(3)(a)(ii) which says that consent is not required for removal of a tree in a heritage conservation area if the works would not adversely affect the significance of the heritage conservation area. It is not necessary to require a full development application for relatively minor works concerning trees in proximity to a heritage item.
 - Other development in the vicinity of a heritage item does not require consent under the draft Standard LEP. Development other than tree removal has the potential to affect the heritage value of an item, for example by altering view corridors. It is inconsistent to require development consent for removal or alteration of a tree but not other development in the vicinity of a heritage item.
 - Trees to which this subclause applies may require regular or proactive maintenance works for safety or aesthetic reasons. It is inappropriate to require a DA every time pruning or similar maintenance works are required. Likewise, if a tree to which this subclause applies becomes hazardous (for example, after severe weather), it is necessary to remove or otherwise attend to the tree immediately. Obtaining a development consent would take too long. The clause must include exemptions to the standards to allow for maintenance work.
42. There is no objective stated in the draft Standard LEP for **Clause 47**. An objective is needed to support the range of built-upon area standards allowed in the different zones.

43. In order to more effectively protect heritage items, in accordance with the Heritage Office Heritage Model Provisions, **Clause 48(2)** should specify the following as also requiring development consent:
 - moving all or part of a heritage item; and
 - erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.
44. The Standard LEP must specify to which developments **Clause 48(5)** applies. Heritage impact statements, which are costly to the applicant, are an appropriate requirement for many heritage items but certainly not for all development in urban conservation areas.
45. **Clause 49(4)(a)** requires the consent authority to be satisfied that the development is compatible with the existing or desired future character of the area. This cannot work without statements of desired future character for different localities being included in the LEP (a single statement for each local government area would be too general). Ku-ring-gai Council supports the inclusion of character statements as part of place-based planning.
46. **Clause 55** allows any bushfire hazard reduction to be carried out on any land without consent. It would be more appropriate if the clause specified that such work does not need consent if it is undertaken by an authority or in accordance with an approved plan. Without such a provision, property owners could clear bushland without consent from Council by claiming it is for bushfire hazard reduction. This would override tree and bushland preservation objectives.
47. The draft Standard LEP addresses environmental issues for development in a coastal zone, waterbodies and riparian land, as well as preservation of trees. There is not presently any provision regarding bushland in other areas. It is important to recognise that bushland (as defined in SEPP 19) does not refer only to treed areas but could also be grassland or heath, which are equally deserving of conservation.

General issues

48. There is no objective stated for a number of clauses in **Part 3 – Subdivision**, specifically **Clauses 19, 20, 21, 22, 23, 25**, whereas objectives are given for other clauses in the template. It is important to be consistent, and it is considered that providing objectives for clauses is necessary so that the clauses can be effectively applied by councils.
49. It is unclear why the standards for subdivision for the purpose of agriculture at cl 25, and **25(3)(a)** and **(b)** must specify that the permitted lot size depends on whether or not there is to be a dwelling on the property. Also, it is unclear if this would preclude future erection of a dwelling on agricultural land if the lot size is less than the specified subdivision area.
50. **Clause 27** – Community use of educational establishments and child care centres should contain a standard specifying that use of such an establishment or centre for any other purpose must be temporary only and must not affect the ongoing use of the site for its primary purpose. It is also necessary to specify that any other use of the site must not interfere with the amenity of the locality.
51. Many Metropolitan Sydney council areas do not contain a caravan park and are not likely to do so in the future. **Clause 39** should therefore not be a compulsory provision in a standard LEP.
52. The rural, recreation and environment protection zones are not included in the list of zones to which cl 46 applies. It is not considered acceptable to allow removal of trees without consent in all instances in these zones. On the contrary, the scenic and environmental effects of tree removal in these zones could be more significant than in others.

53. **Clause 46(2)** indicates that the tree preservation order / DCP does not apply to lands where the *Native Vegetation Act 2003* applies. It is of concern that this could allow removal of trees without approval / consent in open space or environment protection zones, where a landholder claims that the trees are removed for “routine agricultural management actions”.
54. It is important that **Clause 46(9)** be amended to include exemptions to the standards to ensure that certain trees on the noxious weeds list may protected (for heritage or other reasons) under councils’ TPOs or DCPs as is currently the case.
55. **Clause 48(6)** relates only to known archaeological sites. It is considered that potential archaeological sites should also be protected.
56. **Clause 49(4)(c)** allows for advertising that relates to the use of land adjacent to the subject property. This is of concern.
57. It is unclear why **Clause 52** does not apply to watercourses, which are separately defined in the LEP Template.
58. The draft Standard LEP, **Clause 54(4)(b)**, appears to suggest that any divergence from LEP standards will require concurrence of the Director General. This would be extremely onerous for the Department and result in many delays to issuing of development consent. Clarification is required as to whether there would be assumed concurrence to a certain point.
59. **Clauses 54(7)** and **54(8)** are only relevant to council areas in which the River Murray is located. This should not be compulsory for all councils.
60. It is unclear how **Schedule 6** relates to the rest of the draft Standard LEP, except in terms of State Heritage listings (referred to in Clause 48). Can the Schedule also list Local Heritage and heritage conservation areas? The body of the document must make reference to the location of these listings.
61. **Clause 57(a)** states that erection of a building containing more than two floors may not be undertaken without consent. This clause is out of context and is unnecessary. Buildings containing two or more floors would already require consent as they would not be listed as exempt development.
62. **Clause 57(b)** states that development on land that forms part of a wetland or waterbody may not be undertaken without consent. This clause is out of context and unnecessary and would be easily overlooked at the end of the document. It would be preferable to include this information at clause 52 (before sub-clause 3) where waterbodies and riparian land are already discussed. Further, clause 57(b) is not entirely consistent with the zoning matrix, which allows public utility undertakings and installations to be development without consent. The zoning table / matrix must be consistent with the text in the standard LEP.
63. Where development may be undertaken as **complying development**, it is necessary that council or the certifying authority be able to issue standard conditions of consent for the development. It is not clear where in the document these conditions may be included (for example, as a separate schedule within the standard LEP), or whether they are to be appended in a separate document. This needs to be clarified.

F. Definitions

Important issues for Ku-ring-gai Council

64. If definitions required by all councils across NSW are included in the dictionary, the document will become unnecessarily large with irrelevant detail. It is preferable that the template contain all definitions but that only definitions relevant to each council area be

included in the specific LEPs. In this way, when a council seeks to include a new definition in its LEP, an existing definition, if available, could be included in the LEP or the existing definition could be updated (across all LEPs in which it is used) or added to the template.

65. A definition for **building height** is included, however, height is also considered in other contexts and must be defined separately.
66. The definition of **gross floor area** should specify that only that carparking required by the Council's controls is excluded from the calculation. Also, it is unclear why the definition refers to balcony "walls less than 1.4 m high" as this is far higher than a balcony wall would be.
67. It is unclear why **shop top housing** is limited to one dwelling only on a property containing retail or commercial premises. Also, this definition should be considered in conjunction with a definition for **mixed use development**, which is at present undefined but listed as a zone.
68. **Environmentally sensitive area of State significance** includes "land identified as being of high Aboriginal cultural significance". If land is not identified as such, yet it is identified as an Aboriginal place or contains a known Aboriginal relic, it will not have any protection. Exempt and complying development could be undertaken on such lands. This is not appropriate.
69. **Freestanding advertising** should be listed as **advertising (freestanding)** so as to make the document more user-friendly, as per "ground level (existing)" and the like. It is important to be consistent.
70. It is useful to define different aspects of **ground level**, however, the definitions included in the Draft Template need to be improved. **Ground level (existing)** has no use, as the "existing" status is different before and after development. It would be more appropriate to refer to **ground level (pre-development)**, which is the alternate to **ground level (finished)**. It is not necessary to include a definition for **ground level (natural)** as it is often not possible to know where the natural ground level is.
71. The Draft Template includes definitions for **waterbody**, **watercourse** and **waterway**. The relationship between these three terms is not clear. It would be preferable to have one term that refers to moving water (ie, a **watercourse**) and one term that refers to either *all* bodies of water or *all* bodies of water that are not watercourses. The relationship between these two terms should be clear and their use in the body of the document should be consistent.
72. **Maintenance** needs to be defined generally, not just for works undertaken in relation to a heritage item or in a heritage conservation area. Suggested improvement: "Maintenance means continuous protective care without causing damage or change to the existing fabric."
73. The definition for **medical centre** is very broad. It is necessary to distinguish between these and smaller scale **professional / medical consulting rooms** which have a much lower impact on community amenity than large medical centres.
74. The **site coverage** definition excludes basements from the calculation. This potentially permits basements to cover 100% of the site and prevent adequate deep soil landscaping on site. This issue could be resolved in one of two ways:
 - basements should be included in the calculations for site coverage, or
 - councils should be permitted to include a development standard for deep soil landscaping to complement the site coverage standard.
75. The following additional terms should be added to the dictionary:
 - a) **bushland**, as defined in SEPP 19;

- b) **low density, medium density** and **high density** residential development;
- c) terms that are used in Ku-ring-gai Council's draft DCP for exempt and complying development which, it is anticipated, will eventually be incorporated into Schedules 1 and 2 of a comprehensive LEP, are as follows: **amusement device, bagging, complying development, exempt development, Building Code of Australia, cabana, deck, dripline of a tree, easement, front fence, setback, habitable, gazebo, lychgate, Planning for Bushfire Protection, rear property boundary, secondary frontage, special event.**

General issues

- 76. The definitions do not make clear the difference between **commercial premises** and **office**. If they are to be considered as two separate land uses, the distinction must be clear.
- 77. The distinction between a **granny flat** and a **dual occupancy development** is not clear from the definitions. The definition for a granny flat must specify a limit to the size or number of bedrooms and/or a relationship to the primary dwelling.
- 78. It is considered more appropriate to refer to a **granny flat** as a **family flat** so that the language is neither ageist nor sexist.
- 79. The definitions for **group home, permanent group home, share house** and **boarding house** are not sufficiently different – some are at present interchangeable, for example, according to the definitions, a boarding house could be a share house.
- 80. Words must not be used to define themselves. For instance, the present definition of **waterbody** is meaningless because it uses the word to define itself.
- 81. It is preferable to include relevant terms from other Acts in the definitions of the LEP to make the document more user-friendly. The community does not have ready access to all relevant legislation.
- 82. It is not necessary to define **school** when the definition for **educational establishment** includes a school.
- 83. The term **environmental heritage** is used throughout the LEP template but the term is not defined.

G. Other Comments

- 84. Terminology in the LEP Template must be consistent. For example, the term “advertisement” should be used throughout the document and the terms “outdoor advertising”, “advertising structure” and “sign” omitted.
- 85. There is no information in the Help note about Clause 8.

HERITAGE ADVISORY COMMITTEE - MINUTES OF 22 AUGUST 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to receive and note the minutes from the Heritage Advisory Committee meeting held on 22 August 2005.

BACKGROUND:

On Monday 22 August 2005 Council's Heritage Advisory Committee (HAC) held their meeting at the Council Chambers, the minutes taken at this meeting were confirmed and accepted at the HAC meeting held on the 24 October 2005.

COMMENTS:

A number of matters were minuted at the meeting held on the 22 August 2005.

RECOMMENDATION:

That Council note the minutes of the Heritage Advisory Committee meeting held on 22 August 2005.

PURPOSE OF REPORT

For Council to receive and note the minutes from the Heritage Advisory Committee meeting held on 22 August 2005.

BACKGROUND

On 22 August 2005 Council's Heritage Advisory Committee (HAC) held their meeting at the Council Chambers, the minutes taken at this meeting were confirmed and accepted at the HAC meeting held on the 24 October, 2005.

COMMENTS

A number of matters were minutes at the meeting on the 22 August 2005.

Management of Council's Heritage Buildings

This item was deferred for discussion to the next meeting when Councillor Bennett is present as it was originally put on the agenda for discussion by Councillor Bennett, who was unable to attend the meeting held on the 22 August, 2005.

Tulkiyan Strategic Direction and Tulkiyan Sub-Committee Report

A handout was presented to committee members outlining the aims and objectives of the Tulkiyan interim sub-committee as well as information in relation to its chairperson, membership, agenda, minutes, development of working parties and quorum.

The HAC heard that at the sub-committee meeting members attempted to define the roles and processes that the committee will undertake in relation to the Tulkiyan Plan of Management (POM). It is viewed that the sub-committee will make recommendations to HAC for the committee to consider.

It is envisaged that in the future (possibly over 12 months away) a formalised sub-committee will take the place of the existing interim sub-committee as currently stated in the Tulkiyan POM. The existing sub-committee will continue to operate as an interim sub-committee until the POM is reviewed and if deemed necessary updated.

In relation to this issue and the Tulkiyan POM, HAC made two recommendations:

1. That the current status of the Tulkiyan POM be reviewed and if deemed necessary revised to make it a working document and reviewed also in terms of the HAC and sub-committee structure.
2. The interim sub-committee should consider any possible changes to the Tulkiyan POM and report back to HAC.

Item 12

S03816
17 October 2005

It was further decided that at each HAC meeting a structured report should be presented from the interim sub-committee.

Potential Heritage Items Project Update

The Manager, Urban Planning gave a power-point presentation that highlighted the first eighteen properties that have been excluded from the current review of potential heritage items giving reasons for their deletion or deferral from the list of potential heritage items. The first eight properties identified were also discussed at the HAC meeting held on 27 June 2005, they were revisited after the committee requested further information.

It was requested that an email be sent to HAC members containing the potential heritage item review list.

**Proposed Arts and Craft Pottery weekend – Tulkiyan 707 Pacific Highway, Gordon
November 4, 5 & 6 2005**

A number of critical issues requiring clarification came out of the discussion of the Tulkiyan Arts and Craft Pottery weekend that the interim Tulkiyan sub-committee were requested to address at their next meeting on Monday 5 September 2005 and report back to HAC for consideration in the form of a structured report with recommendations. These issues include:

- Consideration of all risk management issues in relation to Council and the public;
- Identification of all resources required for the event (including time and people);
- Consideration of the requirements associated with using Tulkiyan for the proposed weekend in relation to the requirements imposed by the State Heritage Listing of the property;
- All guidelines that exist for Tulkiyan must be considered and met, the sub-committee must refer all terms of reference, aims and objects to the interim sub-committee.

Update on Heritage LEP's or Nominated Sites

- 2 Wirra Close, St Ives – the Committee was advised that the matter went to Council and has been deferred for a site inspection.
- 51 Billyard Avenue, Wahroonga – advised a report is going to Council on 23 August 2005.
- Draft (Heritage Conservation) LEP 32 – this has been on public exhibition and Council has resolved to formally adopt the LEP, it has been sent to DIPNR and is awaiting gazettal.
- Draft (Heritage Conservation) LEP 33 – Council resolved that this draft LEP be placed on public exhibition. It aims to remove 23 Memorial Avenue, St Ives where the house was destroyed by fire in 1998 and 4 Munderah Street, Wahroonga which has been subdivided over the years and has approval for demolition of the dwelling. The Draft LEP will be on exhibition from Friday 26 August 2005 for a period of 28 days.

GML Draft Ku-ring-gai Urban Conservation Areas Study Stage 4

The draft study was handed to the committee to view. The study covers Killara, Warrawee and Wahroonga and has been prepared to be consistent with substantial areas rezoned for medium density under LEP 194.

All HAC Members were invited to comment and provide feedback on the study via email within the two weeks following the meeting and requested to ask other HAC members not present to also provide comments.

DCP 38 – Residential Housing currently under review focusing on the structure of the document and considering the incorporation of heritage provisions through the introduction of desired future character statements throughout the DCP.

DCP 55 – Medium Density Housing currently under review any comments from the heritage point of view are sought and to be provided by HAC members within two weeks to Manager Urban Planning via email.

CONSULTATION

Not required for this report.

FINANCIAL CONSIDERATIONS

Operation of the Heritage Advisory Committee is covered by the Urban Planning Department.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Where relevant consultation with other Departments is conducted.

SUMMARY

The Heritage Advisory Committee was held on 22 August 2005. A range of heritage issues and projects were discussed. A number of issues were identified for future discussion.

RECOMMENDATION

That Council note the Minutes from the Heritage Advisory Committee meeting held on 22 August 2005.

Louise O'Flynn
Heritage Planner

Antony Fabbro
**Manager
Urban Planning**

Steven Head
**Director
Open Space and Planning**

Attachment: Minutes of 22 August 2005 - 539879

MINUTES

HERITAGE ADVISORY COMMITTEE MEETING

MONDAY 22 AUGUST 2005

**Council Chambers
818 Pacific Highway, Gordon**

MEETING OPEN: 6.30PM

1.0 APOLOGIES

Councillor Bennett
Councillor Cross
Ms Edwards

2.0 ATTENDANCE

Community Members:

Mr Stutchbury
Ms Harvey
Ms Macdonald
Ms Mack
Mr Guy

Councillors

Councillor A Andrew (Acting Chair)
Councillor M Shelley

Council Officers

Mr Antony Fabbro, Manager Urban Planning
Mr Paul Dignam, Heritage Advisor
Ms Louise O'Flynn, Heritage Planner

3.0 CONFIRMATION OF MINUTES OF 27 JUNE 2005

The minutes were confirmed with changes to item 7.0 – Tulkiyan, removing Mr Hanson from the interim sub-committee and adding Mr Stutchbury and Ms Mack. The second change was and 16.1 – 81 Clanville Avenue, Roseville.

Moved;	Ms Andrew
Seconded;	Unanimous

4.0 DECLARATIONS OF PECUNIARY INTERESTS

None declared.

5.0 Management of Council's heritage buildings

Item deferred for discussion to next meeting when Councillor Bennett is present.

6.0 Tulkiyan Strategic Direction & Tulkiyan sub-committee report

A handout was presented to committee members outlining the aims and objectives of the Tulkiyan interim sub-committee as well as information in relation to its chairperson, membership, agenda, minutes, development of working parties and quorum. Several minor amendments were made to this document and can be viewed as Attachment A.

At the sub-committee meeting members attempted to define the roles and processes that that committee will undertake in relation to the Tulkiyan plan of management (POM). It is viewed that the sub-committee will make recommendations to HAC for the committee to consider.

It is envisioned that in the future (possibly over 12 months away) a formalised sub-committee will take the place of the existing interim sub-committee as currently stated in the Tulkiyan POM. The existing sub-committee will continue to operate as an interim sub-committee until the POM is reviewed and if deemed necessary updated.

Currently guidelines are being written as a reference for the interim sub-committee, when the guidelines are complete they will be reported to HAC.

Quorum – For the sub-committee meeting to commence, the chair or in their place the deputy chair of HAC must be present.

HAC Recommendation:

- That the current status of the Tulkiyan POM be reviewed and if deemed necessary revised to make it a working document and reviewed also in terms of the HAC and sub-committee structure.
- Interim sub-committee should consider any possible changes to the Tulkiyan POM and report back to HAC

At each HAC meeting a structured report should be presented from the interim sub-committee.

7.0 Potential heritage items project update

Antony Fabbro gave a powerpoint presentation that highlighted the first eighteen properties that have been excluded from the current review of potential heritage items giving reasons for their deletion or deferral from the list of potential heritage items. The first eight properties identified were also discussed at the HAC meeting held on June 27 2005, they were revisited after the committee requested further information.

At the Next HAC meeting in October the remaining excluding items will be presented.

It was requested that an email be sent to HAC members containing the potential heritage item review list.

8.0 Proposed Arts & Crafts Pottery weekend – November 4,5,6

A number of critical issues requiring clarification came out of the discussion of the Tulkiyan Arts & Crafts Pottery weekend. The following issues are to be addressed by the interim sub-committee at their next meeting on Monday 5 September and reported back to HAC for consideration in the form of a structured report with recommendations:

- Consideration of all risk management issues in relation to Council and the public
- Identification of all resources required for the event (including time and people)
- Consideration of the requirements associated with using Tulkiyan for the proposed weekend in relation to the requirements imposed by the State Heritage Listing of the property
- All guidelines that exist for Tulkiyan must be considered and met, the sub-committee must refer to all terms of reference, aims and objectives of the interim sub-committee

Given the advisory role of HAC, the committee does not have the delegated authority to make financial decisions. In respect of the Arts & Crafts weekend, the Sub-committee should at its meeting on 5 September prepare a structured report with clear recommendations to be considered at the next HAC meeting with estimates provided of likely costs, funding opportunities and an assessment of risk management. The report should provide an overall budget for the event. The above identified critical issues for clarification should also be addressed. It should further be noted that the interim sub-committee is the working committee for Tulkiyan while HAC is the advisory committee.

The committee was taken through a proposal put together by Friends of Tulkiyan for an arts and crafts pottery weekend to be held at Tulkiyan. The document sets out a proposed itinerary for the weekend, starting with a cocktail party launch for invited guests on the Friday evening (viewed as a potential PR exercise for Council) followed by tours of the property between 10am and 4pm on Saturday and Sunday.

For this weekend to go ahead, Friends of Tulkiyan must prepare a budget for the event, outlining information and estimations on the following:

Cocktail Party Information:

- Number of expected guests
- Location of party within in Tulkiyan
- Start and finish time of cocktail party
- Total cost of hosting party (food, drink etc)
- Cost & number of invitations to be distributed & mode of distribution
- Anticipated role of Council in party

Open Day Saturday 5th November & Sunday 6th November:

- Number of expected visitors (based on previous experience)
- Price of entrance fee to be charged
- Visiting hours
- Expected time that visitors can seek appraisal of arts & crafts pieces
- List of Friends of Tulkiyan volunteers assisting in running the open day as 'house officers' and others collecting entrance fee and serving tea/coffee
- Location of tea/coffee facilities
- Location of arts & crafts pottery exhibition
- Location of Appraisal of arts & crafts pieces for visitors
- Provide information on insurance & reference as to how Friends of Tulkiyan will overcome the issue of visitors pieces being uninsured
- If marquee is required for cocktail party and as an area for the appraisal activity – specify days required and cost of hire
- Determine need for additional toilet facilities & if required, associated hire costs

Other budgetary issues:

- Identification of desired advertising sources & associated costs i.e. in National Trust or Historic Houses publication & newspaper advertisements
- Number of flyers to be printed
- Other proposed publicity sources and associated costs
- Provide a total cost of the weekend, inclusive of all above mentioned and other foreseen costs

9.0 Update on heritage LEPs or nominated sites

- 2 Wirra Close, St Ives – the matter went to Council and has been deferred for a site inspection.
- 49-51 Billyard Avenue – A report is going to Council on Tuesday 23 August recommending that a draft LEP be made to heritage list the property.
- Draft (Heritage Conservation) LEP 32 – this has been on public exhibition and Council has resolved to formally adopt the LEP, it has been sent to DIPNR and is awaiting gazettal.
- Draft (Heritage Conservation) LEP 33 – Council resolved that this draft LEP be placed on public exhibition. It aims to remove 23 Memorial Avenue, St Ives where the house was destroyed in a fire in 1998 and which was destroyed, and 4 Munderah Street, Wahroonga which has been subdivided over the years and has approval for demolition of the dwelling. The Draft LEP will be on exhibition from Friday 26 August for a period for 28 days.

10.0 GML Draft Ku-ring-gai Urban Conservation Areas Study Stage 4

Antony Fabbro handed out the draft study for the committees viewing. The study covers Killara, Warrawee and Wahroonga. It was explained that the study has run into some conflict with LEP 194.

During the three year development of the study there was consultation with residents.

All HAC members are invited to comment and provide feedback to Antony Fabbro on the study via email within the two weeks following the meeting, and requested to ask other HAC members not present to also provide comments.

Ms Harvey requested a copy of the study on disk.

11.0 DCP 38 & 55

DCP 38 – Residential Housing, currently under review focusing on the structure of the document and considering the incorporation of heritage provisions through the introduction of desired future character statements throughout the DCP.

The DCP is available on the Council Website (current version only).

DCP 55 – Medium Density Housing, currently under review any comments from the heritage point of view are sought and to be provided by HAC members within two weeks to Antony Fabbro via email.

The DCP is available on the Council Website.

Ms Harvey requested a copy of DCP 55 be sent to her on disk.

11.0 General Matters

11.1 After a brief phone call to a Friends of Tulkiyan representative, it was determined that the proposed opening hours for the Arts & Crafts weekend will be 10-4 on Saturday and Sunday with tea and coffee served, and 40-50 guests expected at the Friday night cocktail party.

12.0 NEXT MEETING

The next meeting will be held on Monday 24 October 2005.

13.0 CLOSE

The meeting closed at 8.40pm.

ANNUAL TENDERS - PAVEMENT REHABILITATION

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To seek Council's approval to accept the schedule of rates tender SRT2005/02 for the Pavement rehabilitation by either stabilisation or reconstruction.

BACKGROUND:

Tenders for the Pavement Rehabilitation were called in September 2005 and closed on 11 October 2005.

COMMENTS:

Rates submitted by Stabilised Pavements of Australia Pty Ltd (SPA) are the lowest rates for stabilisation and reconstruction. However, Works Infrastructure has submitted lower rates for fixing sub-grade.

RECOMMENDATION:

That the tender rates submitted by Stabilised Pavements of Australia Pty Ltd for Pavement rehabilitation by stabilisation be accepted and tenderers be advised of Council's decision.

PURPOSE OF REPORT

To seek Council's approval to accept the schedule of rates tender SRT2005/02 for the Pavement rehabilitation by either stabilisation or reconstruction.

BACKGROUND

Tenders were recently called for the pavement rehabilitation by stabilisation or reconstruction and associated subgrade works for the projects nominated in the 2005/06 Capital Works Program. Tenders closed on 11 October 2005.

Tenders were received from the following two (2) companies:

1. Stabilised Pavements of Australia Pty Ltd
2. Works Infrastructure

COMMENTS

The tenders have been assessed by a tender review committee consisting of staff from Finance & Business Development and Technical Services. The tender rates submitted by Stabilised Pavements of Australia Pty Ltd are the lowest rates for stabilisation and reconstruction and they are the preferred contractor. Their performance and quality standard is the best of the companies that tendered.

Although rates submitted by Works Infrastructure for fixing subgrade including supply, delivery and compaction of base materials are the lowest, the cost associated of fixing subgrade is low compared with the total cost of stabilisation. Subgrade work and stabilisation can not be awarded separately as these two processes should be carried out concurrently in most circumstances. However, it is recommended that the rates submitted by Works Infrastructure be accepted as an alternate contractor for fixing sub-grade, if required.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

The rates submitted will be utilised to undertake works under the 2005/2006 Road Pavement Program.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Stabilised Pavements of Australia Pty Ltd is proposed to be the primary contractor for 2005/2006. It should be noted that Stabilised Pavements of Australia Pty Ltd has carried out works in a professional manner in past years.

RECOMMENDATION

- A. That the tender rates submitted by Stabilised Pavements of Australia Pty Ltd for pavement rehabilitation for 2005/2006 be accepted.
- B. That the tender rates submitted by Works Infrastructure for fixing sub-grade be accepted as an alternate contractor, if required.
- C. That the tenderers be advised of Council's decision.
- D. That authority be given to the Mayor and General Manager to affix the Common Seal of Council to the instrument for the Contract for the Pavement Rehabilitation by Stabilisation and associated specifications.

Greg Piconi
Director Technical Services

Alexx Alagiah
Pavements and Assets Engineer

Attachments: 1. Memorandum from Tender Evaluation Committee dated 25/10/05 - 546911
 2. Tender Evaluation SRT2005/02 - Confidential

MEMORANDUM

TO: DIRECTOR TECHNICAL SERVICES

FROM: PAVEMENTS & ASSETS ENGINEER - A ALAGIAH
CO-ORDINATOR PAVEMENTS - M BROOKES
MANAGER REVENUE ACCOUNTING – D LETHBRIDGE

SUBJECT: **SCHEDULE OF RATES TENDERS SRT 2005/02 –
PAVEMENT REHABILITATION**

Tenders were called in September 2005 and closed on 11 October 2005 for the subject contract.

Background

Each year, the Director Technical Services nominates projects for the rehabilitation by either stabilisation or reconstruction in the Capital Works Program and calls tenders for the schedule of rates for the same.

Two (2) companies provided tenders, although not all three (3) companies tendered for every item of work.

Comments

Stabilised Pavements of Australia Pty Ltd has submitted the lowest tender for stabilisation and reconstruction. This company has the expertise to perform the in-situ stabilisation work and has done similar work for Council in the past. This company has been the stabilising contractor for Ku-ring-gai for last five years and performs their task professional manner. They are one of the largest companies in this type work with a reliable fleet of plant and equipment and experienced personnel.

Works Infrastructure has submitted lowest rates for fixing sub-grade including supply, delivery and compaction of base materials. Sub-grade work and stabilisation can not be awarded separately as these two processes should be carried out concurrently in most circumstances. However, it is recommended that the rates submitted by Works Infrastructure be accepted as an alternate contractor for fixing sub-grade, if needed.

Recommendation

- A. That the tender rates submitted by Stabilised Pavements of Australia Pty Ltd for pavement rehabilitation for 2005/2006 be accepted.

- B. That the tender rates submitted by Works Infrastructure for fixing sub-grade be accepted as an alternate contractor, if required.
- C. That the tenderers be advised of Council's decision.
- D. That authority be given to the Mayor and General Manager to affix the Common Seal of the Council to the instrument for the Contract for the Pavement Rehabilitation by Stabilisation associated specifications.

Alexx Alagiah
PAVEMENTS & ASSETS ENGINEER

Michael Brookes
ROAD ASSETS CO-ORDINATOR

David Lethbridge
MANAGER REVENUE ACCOUNTING

CONCESSIONAL GREEN FEES LICENCE TO GORDON GOLF CLUB LIMITED - OFF PEAK COURSE USAGE - ACCESS TIMES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of the result of the public notification procedure and the request from Gordon Golf Club to review the off peak course usage times and fees associated with the licence agreement for concessional green fees.
BACKGROUND:	On 19 November 2002, a one year trial which commenced on 24 July 2003 and concluded 23 July 2004 for concessional green fees for the club in non exclusive tee access (off peak usage) during Monday to Friday was granted.
COMMENTS:	<p>On the 28 July 2005, the Club requested that Council reduce the fee from \$6.50 to \$5.00, to make it more attractive to their members given the other fees members pay to play weekly golf. In addition, they also sought to expand the non exclusive tee access times as outlined in the report.</p> <p>The proposed licence will commence from the expiration of the public notice and the terms of the proposed licence will be in line with the current tenure and expiration of the existing lease.</p>
RECOMMENDATION:	That Council grant a separate licence to the Club for concessional green fees for club members in off peak course usage periods during Monday to Friday, excluding public holidays and re-exhibit the proposed licence in accordance with the Local Government Act 1993.

PURPOSE OF REPORT

To advise Council of the result of the public notification procedure and the request from Gordon Golf Club to review the off peak course usage times and fees associated with the licence agreement for concessional green fees.

BACKGROUND

The current lease arrangement with Gordon Golf Club Limited commenced on 1 December 2003 for a period of 10 years with 2 further options of 5 years. This arrangement comprises of one lease document, which incorporates inclusive access to tee times, golf links and use of the clubhouse precinct.

The lease provides the club with exclusive rights to tee access on the following days between the following hours.

Saturday	8:00am to 12:30pm (inclusive)
Sunday	10:30am to 12:00pm (inclusive)
Tuesday	8:00am to 10:30am (inclusive)
Public holidays	10:30am to 12:00pm (inclusive)

In addition, Council also resolved a one year trial for a separate licence for concessional green fees for members during periods of low course usage on Monday to Friday during the following times.

Monday	1:00pm to 3:30pm (inclusive)
Tuesday	2:00pm to 3:30pm (inclusive)
Wednesday	1:00pm to 3:30pm (inclusive)
Thursday	2:00pm to 3:30pm (inclusive)
Friday	2:00pm to 3:30pm (inclusive)

It should be noted that the concession is not available on public holidays or during competitions. In addition, to ensure no loss of access to the course by the general public, advance bookings by Club members are not available through the golf professionals during these times.

The now expired trial arrangement continues week by week whilst Council and staff resolve the matter so as to not inconvenience members including future members. Council's contract golf professional keeps accurate records of members taking advantage of the concessional fees and tee access times. Club members whom normally play before 12 noon continue to consistently do so and some are now taking advantage of the arrangement to play additional rounds of golf in the afternoon at the reduced rate (ie. 50% of the senior's rate).

Item 14

S02141
4 October 2005

Council subsequently resolved on 24 August 2004, following the trial:

- A. *"That Council grants a separate licence for concessional green fees for Golf Club members in off peak course usage during Monday – Friday in line with the existing lease due to expire 23 July 2023.*
- B. *That the new licence will be ten years with an option of ten years with the concurrence of both parties in line with the existing lease.*
- C. *That Council issue a public notice as prescribed by Section 47(A) of the Local Government Act (1993).*
- D. *That Council authorise the Mayor and General Manager to sign the documentation should no sustainable objections be received following the period of public notice.*
- E. *That Council authorise the affixing of the Common Seal of Council to the Licence document.*
- F. *That a report be brought back to Council if there are any sustainable objections received to the proposal in accordance with Section 47 (4-10) of the Local Government Act (1993)."*

COMMENTS

Council staff have undertaken public notification of the proposed licence. The notice was placed in the North Shore Times, letters were sent to adjoining local residents and a sign was placed at the site.

Following public notification, no objections to the proposed licence for the non exclusive tee access to Gordon Golf Club Limited were received.

However, Council subsequently received correspondence from Gordon Golf Club Limited by email on 28 July 2005 that sought to change the times for the non exclusive tee access (off peak course usage) to reflect the actual usage at the course. The times requested are listed below:

Monday *	From 12 pm till dusk (inclusive)
Tuesday *	From 12 pm till dusk (inclusive)
Wednesday *	From 12 pm till dusk (inclusive)
Thursday *	From 12 pm till dusk (inclusive)
Friday *	From 12 pm till dusk (inclusive)

** Excluding public holidays.*

The Club has also sought a further discount to encourage increased take up. The request is that the priced be reduced from the current \$6.50 to \$5 (including GST) and remain fixed for three years. The \$6.50 rate equates to 50% of the current seniors rate (including GST).

Council's contract course professionals have indicated that the discounted rate has provided a modest increase in course utilisation and revenue. It does not appear to have simply provided existing users with a lower priced game.

Item 14

S02141
4 October 2005

Staff have considered the club's request and believe that the altered fee arrangement is too lenient, but can be supported as outlined below. Hours of access as proposed by the club are acceptable, allowing for a review at the end of three years to ensure that public access and Council's revenue is not compromised.

Recommendation by Staff – 10 August 2005

Year	Amount	Comments
1	\$5.50	Incl GST, fixed rate
2	\$6.00	Incl GST, fixed rate
3	\$6.50	Incl GST, fixed rate
Thereafter	\$6.50 plus agreed adjustment	Amount to be reviewed on the basis of year. This will be influenced by member rounds and impacts (if any) on exclusive tee access income to Council

Staff consider that the above fee structure is fair and reasonable and provides the opportunity for inexpensive additional rounds of golf for Club members (refer Attachment 1) during periods of low course usage. Council directly benefits from an increase in members and the number of rounds they play.

A review after year 3 will determine any impacts on either course revenue or public access. This is not anticipated to be a major concern.

The Club provided a letter of support dated 25 August 2005, received 5 October 2005, to the tee access fee and times as detailed above (refer Attachment 2).

If Council resolves to approve this matter, then proposed new licence for the non exclusive tee access will need to be placed on public notification in accordance with Section 47 and 47A of the Local Government Act 1993. A further report will be brought back to Council, only if substantial objections are received during the public exhibition period.

Following the expiration of the public notification, and if no substantial objections are received, staff will instruct Council's solicitor to prepare the draft licence which would expire in line with the existing lease arrangement on 30 November 2023 (including 2 X 5 year options periods being exercised).

CONSULTATION

Staff have liaised regularly with the Golf Course Professionals to collect the data and Gordon Golf Club executives have been notified of the Officers recommendation as contained in this report.

FINANCIAL CONSIDERATIONS

Advertising costs associated with public notification in accordance with the Local Government Act (1993) Section 46 and 47 regarding the proposed licence will be borne by Council. Costs associated with the proposed grant of the licence will be borne by the licensee, Gordon Golf Club Limited.

Item 14

S02141
4 October 2005

The licence will have negligible direct financial implications for Council although the increased membership of Gordon Golf Club will have a positive financial impact for Council as Council receives a percentage of income relating to the number of rounds undertaken by members.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Open Space, Finance and Business Development have liaised on the proposed licence.

SUMMARY

Gordon Golf Club Limited has been established at the Gordon Golf Course since 1936 providing opportunities for residents and visitors to access golf club membership.

The Club is a valuable component of the golf course and together with Council and Golf Course Professional Services provide tangible benefits to the community at large.

On 19 November 2002, Council resolved to grant a single lease to the club for use of the premises and exclusive use of specific tee access times.

In addition, a one year trial which commenced on 24 July 2003 and concluded 23 July 2004 for concessional green fees for the club in non exclusive tee access (off peak usage) during Monday to Friday was also granted. The average usage during the trial period approximated 3 per week (12 per month) and had little to no effect on expected green fee income to Council from Club members.

On the 28 July 2005, the Club requested that Council reduce the fee from \$6.50 to \$5.00, to make it more attractive to their members given the other fees members pay to play weekly golf. From the period August 2004 to June 2005, during the non exclusive tee access extended times, approximated 4 per week or 16 per month.

In both cases, the non exclusive tee access fee has not overwhelmingly encouraged extra players. It has also not had a detrimental effect on normal member rounds and times as allocated and monthly figures are slowly increasing.

The Gordon Golf Club Limited and Golf Course Professionals both support the continuation of the arrangement in line with the Club's existing lease to include:

1. Non exclusive tee access times be expanded from original times to commence from 12pm till dusk Monday to Friday excluding public holidays.
2. Proposed tee access fees to be set and fixed for the first 3 years and thereafter reviewed on a yearly basis in consultation with Gordon Golf Club Limited, including giving consideration for impact on public access and course revenue.

RECOMMENDATION

- A. That Council approve the granting of the licence for concessional green fees for Golf Club members in off peak course usage during Monday to Friday, excluding public holidays at fees and times as detailed in the report.
- B. That the new licence is to commence from the expiration of public notice and coincide with the tenure and expiration of the current lease agreement.
- C. That Council issue a public notice as prescribed by Section 47(A) and 47 of the Local Government Act 1993.
- D. That Council authorise the Mayor and General Manager to sign the documentation should no substantial objections be received following the period of public notice.
- E. That Council authorise the affixing of the common Seal of Council to the licence document.
- F. That a report be brought back to Council if any substantial objections to the proposal are received in accordance with Section 47 (4-10) of the Local Government Act 1993.

Amanda Colbey
Manager Parks, Sport & Recreation

Steven Head
Director Open Space and Planning

Attachments: 1. Letter from Council to Gordon Golf Club dated 17 August 2005 - 540741
 2. Letter from Gordon Golf Club dated 25 August 2005, received 5 October 2005 - 518968

Amanda Colbey

S02141 and P50679

17 August 2005

Gordon Golf Club Limited
2 Lynn Ridge Avenue
GORDON NSW 2072

Attention: Mr John Markham

Dear Mr Markham

**SUBMISSION ON PROPOSED NON EXCLUSIVE TIME ACCESS AT
GORDON GOLF COURSE**

I refer to your email correspondence to Council dated 28 July 2005, and apologise for the delay in response to date.

Staff now have the required information to reassess your Club's proposal regarding the non-exclusive tee access at Gordon Golf Course.

We anticipate a report to Council on 20 September 2005 with regards to this matter with the following recommendations for Council's consideration:

Tee Access Times

Original trial tee access times – as resolved by Council on 24 August 2004

Monday	1:00pm to 3:30pm inclusive
Tuesday	2:00pm to 3:30pm inclusive
Wednesday	1:00pm to 3:30pm inclusive
Thursday	2:00pm to 3:30pm inclusive
Friday	2:00pm to 3:30pm inclusive

Proposed new tee access times by Club

Monday *	12:00pm till dusk inclusive
Tuesday *	12:00pm till dusk inclusive
Wednesday *	12:00pm till dusk inclusive
Thursday *	12:00pm till dusk inclusive
Friday *	12:00pm till dusk inclusive

* outside of competition times and excludes public holidays.

Tee Access Fee

Original trial tee access fee of \$6.50 (incl GST) as resolved by Council on 24 August 2004.

Proposal by Club

Seeking a fixed fee of \$5.00 (incl GST) for the first 3 years and thereafter fees is reviewable.

Recommendation by Staff

Year	Amount	Comments
1	\$5.50	Incl GST, fixed rate
2	\$6.00	Incl GST, fixed rate
3	\$6.50	Incl GST, fixed rate
Thereafter	\$X.XX	Amount to be reviewed on the basis of year. This will be influenced by member rounds and impacts (if any) on exclusive tee access income to Council

Staff recommendation on the basis of the following:

1. There has been an increase in club member rounds of approximately 62 at \$6.50 rate.
2. Time allocation for the additional tee access has been considerably expanded from that of the original trial times.

Staff deem that the above fee structure is a fair and reasonable compromise between the original trial and the Club's request to ensure the opportunity for inexpensive additional rounds of golf for Club members continues.

Can you please consider the above proposition and if you concur, a letter of support will be required to form an attachment to the Council report. Your letter would be required no later than 5 September 2005 to meet Council's internal report process.

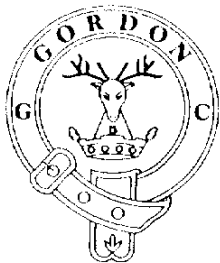
Please note that following Council's resolution regarding this matter, the proposed new licence for the non exclusive tee access will again need to be placed on public notification in accordance with Section 47 and 47A of the Local Government Act 1993.

For your information, assuming Council resolves the above matter on 20 September 2005, the public notification will commence on 28 September for a minimum of 30 days. If no substantial objections are received, staff will instruct its solicitor to prepare the draft licence which would expire in line with the existing lease arrangement.

If you have any further questions, please feel free to contact me on 9424 0818.

Yours sincerely

Amanda Colbey
Manager Parks, Sport & Recreation
518968/2



Gordon Golf Club Limited

A.C.N. 001 045 478 A.B.N. 97 001 045 478

Address all communications to the Secretary/Manager

25th August 2005.

Ms. Amanda Colbey,
Manager, Parks, Sport and Recreation,
Dept., of Open Space,
KU-RING-GAI COUNCIL.

Der Ms. Colbey,

Re: Proposed non exclusive time access at Gordon Golf Course

Thank you for your letter of 17th August (Ref. S02141 & P50679) concerning the above matter.

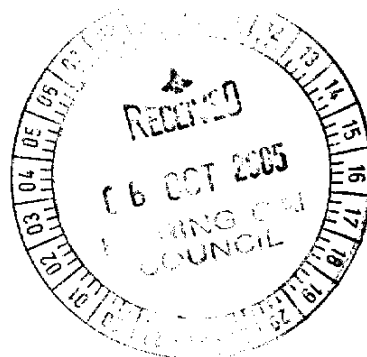
The Board at its recent meeting adopted your "staff recommendations" and noted your advice in relation to publication of the process.

The Club therefore supports the proposal and appreciates the efforts of Councils' staff to help promote and develop the game at golf at Gordon.

To avoid confusion and unnecessary problems, can I suggest that we implement the proposal by administrative action from (say) the date of Council's approval (whatever final form that may take) pending settlement of the draft licence and the process of the notification arrangements.

Yours faithfully,

(John Markham)
PRESIDENT.



2 Lynn Ridge Avenue Gordon NSW 2072

Telephones: Club House: 9498 1913 Course: 9498 1277 Fax: 9880 2337 Email: gordongc@geko.net.au

NOTICE OF MOTION

EXTINGUISHMENT OF A COUNCIL EASEMENT BY REZONING

Notice of Motion from Councillor T Hall dated 20 October 2005.

I move:

"That Council prepare a draft LEP, to be included in current drafts under consideration, for the zoning of the (unzoned) pathway easement between Newhaven Place and Link Road, St Ives, created in a 1965 subdivision but now in disuse, as Res (2d3) to match adjoining Res (2d3) zoned lands and to reclassify the land from community land to operational land and to provide a public benefit with its disposal."

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cr Tony Hall
Councillor for St Ives Ward

NOTICE OF MOTION

OVERSIGHT OF MAYORAL CORRESPONDENCE

Notice of Motion from Councillor T Hall dated 31 October 2005.

I refer to the Mayor's reply to the National Trust supporting the Trust's refusal to allow its name on Ku-ring-gai Council street signs as reported in the North Shore Times, notwithstanding a Council resolution not to heritage list 2 properties in Richmond Avenue St Ives was the grounds for the Trusts refusal and about which resolution the Mayor omitted to inform the Trust in her reply 21st September 2005.

I move that:

"All Mayoral correspondence with the external authorities be circulated for consideration by Councillors before dispatch."

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cr Tony Hall
Councillor for St Ives Ward

Attachments: Background information under separate cover

RESOLUTION OF ORDINARY MEETING OF COUNCIL

19 JULY 2005

289

27 Richmond Avenue & 400 Mona Vale Road, St Ives

File: S03747

The following members of the public addressed Council:

**S Robertson
I Stutchbury
J Boyd
Z Edwards
S Rahmani
R Hubbard
T Williams**

***At 1.00am a Motion moved by Councillors Bennett & Malicki to
extend the meeting until 1.15am was put to the vote***

For the Resolution: *The Mayor, Councillor A Ryan, Councillors Andrew,
Bennett, Ebbeck, Hall, Innes, Lane & Malicki*

Against the Resolution: *Councillor Cross*

***At 1.15am a Motion moved by Councillors Bennett & Ebbeck to
extend the meeting until 1.30am was put to the vote***

For the Resolution: *The Mayor, Councillor A Ryan, Councillors Andrew,
Bennett, Ebbeck, Innes, Lane & Malicki*

Against the Resolution: *Councillor Hall & Cross*

Notice of Motion from Councillor L Bennett dated 11 July 2005.

I move:

- A. That with respect to 27 Richmond Avenue St Ives, Council adopts Draft (Heritage Conservation) Local Environmental Plan No 29 and submit the draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act with a request that the Plan be made..
- B. That with respect to 400 Mona Vale Road St Ives, Council adopts Draft (Heritage Conservation) Local Environmental Plan No 29 and submit the draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act with a request that the Plan be made.

- C. That Council notifies the NSW Heritage Council informing them of Council's decision.
- D. That Council notifies all affected residents and all people who made a submission of its decision.

Resolved:

(Moved: Councillors Bennett/Malicki)

- A. That with respect to 27 Richmond Avenue St Ives, Council adopts Draft (Heritage Conservation) Local Environmental Plan No 29 and submit the draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act with a request that the Plan be made..

For the Resolution: Councillors Andrew, Bennett, Cross, Ebbeck and Malicki

Against the Resolution: The Mayor, Councillor A Ryan, Councillors Hall, Innes, Lane

- C. That Council notifies the NSW Heritage Council informing them of Council's decision.
- D. That Council notifies all affected residents and all people who made a submission of its decision.

For the Resolution: The Mayor, Councillor A Ryan, Councillors Andrew, Bennett, Cross, Ebbeck, Malicki

Against the Resolution: Councillors Hall, Innes and Lane

Part B of the Original Motion when put to the vote was LOST. Part B of the Original Motion was:

(Moved: Councillors Bennett/Malicki)

- B. That with respect to 400 Mona Vale Road St Ives, Council adopts Draft (Heritage Conservation) Local Environmental Plan No 29 and submit the draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act with a request that the Plan be made.

For the Resolution: The Mayor, Councillor A Ryan, Councillors Andrew, Bennett, Ebbeck, Innes, Lane & Malicki

Against the Resolution: Councillor Cross & Hall

RESOLUTION OF ORDINARY MEETING OF COUNCIL

26 JULY 2005

301 27 Richmond Avenue & 400 Mona Vale Road, St Ives
.
File: S03747

The following members of the public addressed Council:

**I Stutchbury
S Rahmani
R Hubbard
S Davies**

Notice of Rescission from Councillors T Hall, G Innes & M Lane dated 20 July 2005.

"We, the undersigned, move that the Council's decision, in respect of (A) made under NM.1 (Refer to Minute No 289 of 19 July 2005) be and is hereby revoked and Council take no further action in relation to Draft LEP 29."

Resolved:

(Moved: Councillors Hall/Lane)

That the above Notice of Rescission as printed be adopted.

*For the Resolution: The Mayor, Councillor A Ryan, Councillors Hall,
Innes, Lane & Shelley*

*Against the Resolution: Councillors Andrew, Bennett, Cross, Ebbeck &
Malicki*

*The voting being EQUAL, the Mayor exercised her Casting Vote
IN FAVOUR of the Motion*

J.H.Boyd
400 Mona Vale Road
(PO Box 911)
St. Ives 2075

Phone (02) 9488 8934

28th October 2005

Dear Mr. Hall

You will recall that in April and again July of this year Council considered imposing a heritage listing on my home at 400 Mona Vale Road St. Ives..

I felt obliged to object to the listing because of the very considerable loss in property value which would result – in my case an independent property valuer had estimated that listing would reduce the value from \$720 000 to \$600 000, a loss of \$120 000.

There was an article recently in the Sydney Morning Herald that is very relevant to this, and I have enclosed a copy in case you did not see it. It was by Mr. Alan Anderson, a lawyer, and appeared on the 17th of October. His points include that:

- "It is easy to support listing something that "it would be nice to save" when the entire cost is born by the poor soul who owns it. Heritage becomes theft."
- * and "if heritage is a public good.....then surely the cost should be borne by the public,"

I find myself very much in sympathy with Mr. Anderson's views.

May I ask you to imagine yourself as a pensioner who suddenly has a heritage listing dropped on him, and can see his life savings being significantly reduced, without any recourse in the matter. How would you feel?

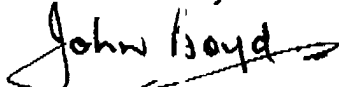
Surely if listing is to go ahead there must be some way of providing adequate compensation.

I have also included for your information a copy of a presentation I made in August this year to the Australian Government Productivity Commission's public inquiry into heritage.

My presentation outlines my experiences during the four occasions when my home has been threatened with heritage listing, as well as describing the likely loss in property value I would have suffered and the completely inadequate compensation which was being offered.

Finally, I would like to thank Council for not listing my home earlier this year

Yours faithfully



John Boyd

A Presentation by

**Janet and John Boyd
400 Mona Vale Road
St Ives NSW 2075**

Ph: 02 9488 8934

To

**Inquiry into the Policy Framework
And Incentives for the Conservation
Of Australia's Historic Built
Heritage Places**

Conducted By

The Productivity Commission

**Australian Government
Belconnen ACT**

18th August 2005

Summary

This presentation outlines the experiences of one home owner unfortunate enough to have bought a home which has subsequently been threatened with heritage listing on four separate occasions.

The presentation also describes the significant loss in property value which would result, and the completely inadequate compensation offered by the proponents.

Good morning

My name is John Boyd. I am 76 years old.

My wife Jan Boyd and I are the joint owners of our home at 400 Mona Vale Road, St Ives, one of Sydney's northern suburbs.

We are both aged pensioners.

Thank you for the opportunity to participate in the Commission's Heritage Inquiry. We forwarded a written submission to the Inquiry on the 21st June 2005. Although there have been further developments since that date, they have not (as yet) affected the heritage status of our property.

Ignorance but not bliss

We purchased our property in September 1986. At that time our solicitor's searches did not reveal that there were any heritage issues associated with it, or that there were ever likely to be. Had we known the anxieties that lay ahead we would certainly not have bought it.

But as it turned out, our home had been one of half a dozen demonstration homes which had been built in 1964 and 1965 and were then known as the " St. Ives Pettit & Sevitt Display Village." They were all sold into private ownership in 1966.

Pettit & Sevitt was a large firm which built project homes. It was originally formed in 1961. It was sold in 1974, and ultimately passed into receivership in 1978. By then the company had built some 3,500 homes throughout Australia, Fiji and New Zealand. And of those homes, some 1500 were basically similar to ours.

Our first brush with heritage listing:

In 1988, some two years after we bought our home, our local Ku-ring-gai Municipal Council put forward a proposal to include our house and the other five original houses of the Pettit & Sevitt display village in their Heritage Conservation Local Environmental Plan No. 1.

Their reasons included:

- The homes had all been designed by a Mr. Ken Woolley, then a young man, but ultimately to become an acclaimed domestic architect
- Landscaping of the display village had been done by a Mr. Bruce Mackenzie whose work was also subsequently widely recognised
- The photography for the firm's advertising brochures was done by Max Dupain, a widely recognized Australian photographer

We opposed this heritage listing, and in June 1989 Council notified us that it had resolved not to list our property.

We heard no more about heritage in the ensuing 14 years, and in fact during that time we obtained Council approval to alter and extend our home. The work was duly carried out and approved, and the question of heritage was never raised during the entire process.

Our second brush with heritage listing:

But heritage was back on the agenda in December 2003, this time at a State level. The nominators were the Ku-ring-gai Municipal Council and the Royal Australian Institute of Architects. Again we opposed listing.

And in June 2004 the NSW Heritage Review Committee notified us that it had recommended to the Minister that the homes of the original St. Ives Pettit & Sevitt Display Village be not listed on the State Heritage Register.

Our third brush with heritage listing:

In August 2004 Ku-ring-gai Council again proposed that our property be heritage listed and included on its Heritage Local Environment Plan, now No. 29.

Again we opposed listing.

It might be appropriate at this stage to say why.

Council's Heritage Officer had told us that the value of our property would appreciate in value by some 12% if it were heritage listed.

But we had very different advice from an independent qualified and registered property valuer.

He reported that if our home were listed, its value would drop from by some \$120,000, from \$720,000 to \$600,000.

The matter came before Council in April 2005. There was some pretty heated debate.

Those for listing included Council staff, two or three Councillors, and representatives of the Royal Australian Institute of Architects, the National Trust, and Docomomo Australia. All of these could see significant heritage advantages in the listing. And, incidentally, would not be personally out of pocket.

Those Councillors against listing felt some sympathy for the position my wife and I were in. They could see that in fact my wife and I would have to bear the full personal and financial costs if our home were listed. These were significant:

- The loss in value of our home would be around \$120,000
- We are both pensioners, and our home is the main asset we have to pay for any necessary moves and changes in lifestyle as we grew older. A reduction in its value might well limit what future options would be available to us.
- The slight reduction in council rates and the \$1000 offered every four years by Council for maintenance, upkeep and improvements, would be negligible compensation for our loss in property value.

In addition, The Councillors against listing recognised that we had been put under great strain by this continuing move to list our property. I have been fighting cancer for several years and all this certainly hasn't helped.

A majority of Councillors voted against the listing, and we were duly advised that as a result of Council's resolution, Council would be taking no further action to list our property on its Local Environment Plan. Their letter was dated as recently as 12th May of this year.

Our fourth brush with heritage listing:

In the intervening two or three month since receiving what appeared to be final advice that our home would not be listed some remarkable things have happened:

- The Royal Australian Institute of Architects admitted that for some years it had been considering several project home display villages constructed during the 1960s for heritage listing, without coming to any conclusions.
- But suddenly it was able to make up its mind that the St. Ives Pettit & Seritt Display Village warranted first ranking. This decision was immediately passed on to the NSW State Heritage Office who on the third June 2005 wrote to Ku-ring-gai Council recommending it reverse its decision and list our home.

* Armed with this letter, the proponents on Council for listing were able to get the matter back before Council and a meeting was scheduled for July 2005.

* Literally at the eleventh hour, the National Trust also wrote urging Council to list our home. Their letter was received the day before the Council meeting.

Council dealt with the matter at a fiery meeting in July, and yet again decided not to list our property.

The present position

It seems that our property is secure from Local Government listing for the duration of the current Council. A future Council could reverse this Council's decision and list it.

There is however nothing to stop a State or Federal Heritage Committee from listing it now or at any time in the future.

The Future?

Frankly we don't know what to do. It seems highly unlikely this issue will go away.

Should we cut our losses, sell now, bear the costs of agents' fees, stamp duty, moving etc and try and find somewhere else to live?

Or should we just stay put knowing that the whole issue of heritage could come up again at any time in the future and that we might have to face all this stress and strain again? As well as a considerable loss in the value of our home without adequate compensation?

General comments

From our point of view this whole heritage exercise has been a harrowing and deeply unsatisfying experience.

Despite the views expressed by one Councillor, it is very hard to see any relationship in heritage values between this little group of 1960s project homes and Sydney's Rocks area or Hadrian's Wall in the north of England.

Certainly, these homes were the first group of Pettit & Sevitt homes to be built in our municipality. However they were not the first such homes to be built, and are hardly unique. In fact 3,500 Pettit & Sevitt homes were built in Australia, Fiji and New Zealand. And some 1500 of them are quite like ours.

Getting back to our little group of houses, several have been altered over the years, and the landscaping of the group has changed considerably as gardens were developed and trees grew to maturity. The adjacent main road, which our home faces, has grown to a very busy six lane arterial road. Certainly much of the character of the original display village has been lost.

It seems highly likely that the vast majority of Ku-ring-gai's 100,000 residents are completely unaware of the existence of this little group of one-time display houses, and would not see any particular merit in preserving them for posterity.

But they haven't really been asked!

The 29 day public exhibition of Draft LEP No. 29 took place at Council Chambers and Libraries. It received several submissions recommending heritage listing from architectural and heritage associated groups within the municipality and the greater Sydney region. All of whom would have been made aware of the situation, all of whom had some sort of vested interest, and all of whom would claim to be experts.

Those against heritage listing were family, friends and neighbours of the people who would be affected. We, too, had a vested interest and were aware of the situation. Unfortunately we are not classified as experts.

There were no submissions from the general public in favour of the proposed listing or against it.

My wife and I approached several heritage-related architectural businesses to obtain an independent assessment of our property's heritage value. We came up against a brick wall. None were prepared to become involved once they realised that both Council and its staff were endeavouring to have our home listed on Council's heritage register.

There is little doubt that the whole thing has been pushed along by some heritage-oriented officers on Council's staff – perhaps keen to get some achievements on their record. And they have been ably supported by a couple of Councillors anxious to increase our municipality's heritage profile.

It is also hard to believe that the Royal Institution of Architects could be unbiased in any advice it gave. Who could imagine that it could advise that the work of one of their eminent members wasn't worth preserving?

And from a personal perspective:

During the whole process we have felt a great sense of frustration and of being powerless, and that we were the victims.

We have been effectively under attack by a few members of Council and its staff, and by representatives of these other bodies interested in heritage. But none of them were interested in our viewpoint, or seemed to have the slightest feeling of caring or compassion for us or the position they were putting us in.

They were in effect quite prepared to rob us of over \$100,000 of our life's savings without any adequate compensation, an action which in other circumstances might well have landed them in gaol. Perhaps that would have been appropriate!

To sum up

In a nutshell it seems to us that if Australia is really serious about preserving its heritage, it is essential that it lay down rules and guidelines for adequate consultation with the public, and for honest and fair compensation to those who are affected.

Efforts to preserve our heritage may well be politically correct and culturally elite, but without adequate financial and other compensation to the people affected they are simply immoral.

Thank you for the opportunity to speak to you. Copies of relevant correspondence are attached to the copy of this presentation I forwarded to you.

I would be very happy to answer any questions you may have.



Land and Environment Court of New South Wales

CITATION : Jenkyn v The Valuer General [2000] NSWLEC 280
PARTIES : APPLICATION:
Jenkyn

FILE NUMBER(S) : RESONDENT:
The Valuer General
30062; 30063; 30064 of 2000
CORAM: Bignold J
KEY ISSUES: Costs :- costs in valuation appeal - effect on land value of
heritage restrictions - consent orders reducing amount of
statutory valuation - whether exceptional circumstances
established.

LEGISLATION CITED: Valuation of Land Act 1916
CASES CITED: Leichhardt Municipal Council v Seatainer Terminals (1981) 48
LGRA 409;
Maurici v Chief Commissioner of State Revenue (No 3) (2000)
107 LGERA 222;
Secretary of State for Foreign Affairs v Charlesworth Pilling
and Co (1901) AC 373;
Tenstat Chullora No 2 Trust v Valuer General (2000) 110
LGERA 227

DATES OF HEARING: 1 December 2000
DATE OF JUDGMENT: 22/12/2000

LEGAL REPRESENTATIVES: APPLICANT:
Mr Jenkyn, Barrister (also agent for other Applicants)
SOLICITORS
N/A
RESPONDENT:
Mr P Kelso, Solicitor
SOLICITORS
Kelso Taylor

JUDGMENT:
IN THE LAND AND Matter No. 30062, 30063 of 2000
ENVIRONMENT COURT OF Coram: Bignold J.
NEW SOUTH WALES 22 December 2000

JENKYN

Applicant

v

THE VALUER GENERAL

Respondent

JUDGMENT

Bignold J:

A. INTRODUCTION

1. By their Notices of Motion filed in each set of three related class 3 proceedings, each Applicant seeks an order for costs in the proceedings. The Motions which are opposed by the Valuer General have, by consent, been heard together.

2. Each of the proceedings involved an appeal pursuant to the *Valuation of Land Act 1916*, s 38 against the Valuer-General's decision on an objection to the Valuer-General's determination of the "land value" of a residential property situate in the Municipality of Hunters Hill as at the base date of **1 July 1999**.

3. Each of the proceedings was commenced on **6 June 2000** and each of the proceedings was concluded (without any hearing on the merits of the case) by consent orders made on **20 November 2000**.

4. In each case, the consent orders significantly reduced the amount of the statutory valuation that had been determined by the Valuer-General and reserved the question of costs for the Court's later determination.

5. Since Mr Jenkyn, Barrister, appears for himself in his proceeding and also as agent for the other Applicants in their proceedings and since the issues raised in each of the cases were common, it will facilitate matters if the judgment were to concentrate on the facts of his case. This accords with the manner in which the three Notices of Motion were presented and argued.

6. The relevant facts of Mr Jenkyn's case must now be noted. For convenience, I shall deal with them in three stages—(i) Pre-litigation facts; (ii) Litigation History; (iii) Facts established at the Hearing.

B. RELEVANT FACTS PRIOR TO LITIGATION

7. On **28 September 1999** the Valuer-General determined the land value of the Applicant's properly known as No 30 Woolwich Rd, Hunters Hill as at base date 1 July 1999 in the sum of **\$935,000** and subsequently notified the Applicant of that valuation.

8. On **24 February 2000** the Applicant objected to that determination. The objection was contained in a detailed written submission (some four pages in length supported by a considerable body of written materials). The central thrust of the objection was that the valuation should be significantly reduced on account of the severe restrictions on the use of the property by virtue of it having been listed as a heritage item by the Hunters Hill Local Environmental Plan (the LEP).

9. In support of that submission, the Applicant relied upon the advice of a property consultant specialising in the Hunters Hill area whose written advice had noted "*the view has been taken by the Office of State Revenue NSW Treasury in relation to heritage listed properties in Hunters Hill of offering approximately 1/3 reduction in land valuation*".

10. On **7 April 2000**, the Valuer-General notified the Applicant that he had upheld his objection and in consequence, the land value (as at the base date of 1 July 1999) had been reduced from **\$935,000** to **\$790,000**. (It was later revealed that the reduced figure should have been \$750,000 due to arithmetic miscalculation.)

11. The Valuer General's letter notifying his decision on the objection included the following statement (upon which the Applicant places fundamental reliance in justification of his appealing the Valuer General's decision and of his prosecuting the appeal):

The only Heritage Restriction that can be recognised for Council land values is that imposed by a Permanent Conservation Order made pursuant to the Heritage Act, 1977. These Orders are made in regard to individual properties, and the Valuer-General determines a heritage value which is used for Council rating instead of the land value. Heritage restrictions imposed by Council's Local Environmental Plan, or other planning policies, must be ignored for the purpose of determining the land value used by Council. However, such restrictions may attract a concession in the assessment of land

tax. If you are liable for land tax, you should contact the Office of State Revenue to apply for the determination of a Heritage Restricted value.

12. By letter dated **2 June 2000**, the Applicant responded to the Valuer-General's decision on the objection by seeking particulars of how the valuations of **\$935,000** and **\$790,000** respectively, in respect of his property had been arrived at *"and where you were in error in your valuation of \$935,000"*. The letter then specifically responded to the advice concerning *"heritage restrictions"* which had been included in the Valuer-General's letter of 7 April 2000 (I have just recited the relevant passages from the Valuer General's letter) by suggesting error by the Valuer found in **(a)** *"not properly taking into account the heritage restrictions that apply to our land"* and **(b)** *"failing to value vacant land on the basis that the surrounding land, and improvements exist and the local planning instrument is a reality"*.

13. Furthermore, the Applicant asserted that the Valuer-General had *"not correctly interpreted s 6A of the Valuation of Land Act"*.

14. Finally, the letter advised that the Applicant *"shall be lodging an appeal to the Land and Environment Court in relation to your review of our objection"*.

15. On **6 June 2000**, the Applicant commenced the present proceedings.

C. THE LITIGATION HISTORY

16. The litigation history did not ultimately follow the conventional path taken by most appeals pursuant to the *Valuation of Land Act*, s 38 against the decisions of the Valuer General on objections to his statutory valuations. The usual course is for such appeals to be given an early hearing date without any pleadings and simply relying upon compliance with the Rules of Court for the service and filing of expert reports 14 days before the fixed hearing date: **Pt 13 Rule 16(a)**.

17. In fact, in accordance with the usual procedures, a hearing on **7 November 2000** was fixed for the appeal.

18. However, the Applicant, by Notice Motion brought the matter before Duty Judge on **20 July 2000**, seeking an order that the proceeding be heard by a judge because *"it involves questions of law"*.

19. The Applicant's Motion was adjourned to **27 July 2000** before the List Judge who on that occasion gave directions for the filing of points of claim and points of defence.

20. On that same occasion, the Applicant filed in Court a document raising the following three questions of law:

1. Whether in determining land value pursuant to section 6A of the Valuation of Land Act 1916, consideration should be given to heritage restrictions imposed by a Local Government Authority's Local Environmental Plan and Development Control Plan upon:

a) the land itself, and

b) the land together with improvements on that land.

2. Whether in determining land value pursuant to section 6A(1) and (2) of the Valuation of Land Act 1916, it should be assumed that the land together with its improvements may continue to be used for its existing purpose as affected by heritage restrictions that apply to both the land itself and the improvements on that land.

3. In circumstances where either:

a) the relevant property to be valued is subject to heritage restrictions including being listed as an item of environmental heritage under a Local Environmental Plan, or

b) the relevant property to be valued is subject to heritage restrictions,

the appropriate method of land valuation is to take comparable sales of similar improved heritage affected properties and deduct from that value an appropriate value for the existing improvements on the relevant property.

21. The proceeding again came before the List Judge on **4 September 2000** when he vacated the hearing date that had been fixed for **7 November 2000** and gave a number of directions for the filing of expert valuation reports and for the valuers to confer, pursuant to the Court's Practice Direction on Expert Witnesses, to prepare a joint statement for the Court pursuant to that Practice Direction.

22. The matter again came before the List Judge on **6 November 2000** for mention and was adjourned for mention before the Duty Judge on **20 November 2000**.

23. On **20 November 2000**, the proceedings were concluded (save for the reserved question of costs) by consent orders.

D. ADDITIONAL FACTS ESTABLISHED AT THE HEARING OF THE NOTICE OF MOTION

24. The only additional facts to emerge at the hearing of the Applicant's Costs Motion can be briefly

noted as follows.

25. **On 31 July 2000** (just four days after the List Judge had given directions for the filing of points of claim and points of defence) the Solicitor for the Valuer-General wrote to the Applicant in the following terms:

In each matter and notwithstanding anything that may have been indicated by our client previously, our client does not assert the heritage restrictions imposed by a local environmental plan and/or a development control plan are irrelevant in determining land value. Our client accepts the principle laid down in Royal Sydney Golf Club v FCT (1955) 91 CLR 610 that statutory restrictions as these must be considered in determining what price would be obtained on a notional sale, as required by s 6A (1) of the Valuation of Land Act. The question of what weight should be given to those restrictions is a matter to be determined in each particular case.

It follows, in our submission that the first of the questions of law raised for consideration by the court is not in contention and we therefore suggest that it be withdrawn.

26. Included in the Applicant's Points of Claim are the following passages which elicited the following responses in the Respondent's Points of Defence—

Claim

20. In determining land value pursuant to section 6A of the Valuation of Land Act 1916, consideration should be given to heritage restrictions imposed by a Local Government Authority's Local Environmental Plan and Development Control Plan upon the land itself, and the land together with improvements on that land.

Defence

The respondent admits paragraph 20 to the Points of Claim, save that it denies that in determining land value consideration would be given to the effect of heritage restrictions on existing improvements on the land because of the assumption required to be made by section 6A(1) of the Valuation of Land Act.

Claim

21. In determining land value pursuant to section 6A(1) and (2) of the Valuation of Land Act 1916, it shall be assumed that the land together with its improvements may continue to be used for its existing residential purpose as affected by heritage restrictions that apply to both the land itself and the improvements on that land.

Defence

The respondent admits paragraph 21 of the Points of Claim, but says that, in terms of Section 6A(2) of the Valuation of Land Act, the assumption stated in that paragraph does not prevent regard being had, in determining land value to any other purpose for which the property might be used on the assumption that the improvements had not been made

Claim

22. In the circumstances of this case, where the relevant property to be valued is subject to heritage restrictions, the appropriate method of land valuation pursuant to section 6A of the Valuation of Land Act 1916 is to take comparable sales of similar improved heritage affected properties and deduct from that value an appropriate value for the existing improvements on the relevant property.

Defence

The respondent denies that the method of valuation stated in paragraph 22 of the Points of Claim is an appropriate, or permissible, method to be used in determining the land value of the subject property.

Claim

23. In the case of 30 Woolwich Road the land value is \$400,000 arrived at by deducting \$500,000 as an appropriate sum for the improvements from the sum of \$900,000, a reasonable sale price for the land and improvements.

Defence

The respondent denies both the method of arriving at a land value stated in paragraph 23 of the Points of Claim, and the land value thus derived.

27. The parties filed their respective expert's valuations—Mr Croker, District Valuer of the Valuer General valuing the Applicant's property in the sum of **\$750,000** (ie the corrected figure reflecting the Valuer General's decision on the Applicant's objection to his original statutory valuation) and Mr Large Consultant Valuer valuing the same property in the sum of **\$600,000**.

28. In the Expert Valuers' Joint Report to the Court, agreement is reached as to the land value of the Applicant's property in the sum of **\$675,000**. The Report contains the following statement:

In negotiations Mr Croker and Mr Large have agreed to all elements of adjustment to arrive at the reassessed figures. A discount of 25% in assessing the land value of the subject properties has been accepted as the agreed discount for the heritage restrictions.

There remains disagreement between Mr Croker and Mr Large in relation to the analyses of improved comparable sales in arriving at land values. Mr Large considers that improved sales, particularly of heritage listed and affected properties where improvements are included should also be analysed to arrive at a land value in these cases. There also remains disagreement on whether heritage restrictions that apply to the improvements on the properties should be considered. Mr Large contends that they should and Mr Croker contends that they should not.

29. Mr Croker, in his affidavit sworn 27 November 2000, stated the following:

3. *It is a well-known principle of valuation, exemplified by the decision in Royal Sydney Golf Club that public planning affectations, including those related to heritage, must be taken into account in determining land value as affecting the highest and best use that can be made of the relevant land. Based on my experience, this principle is well known and understood by every qualified valuer.*

4. *The initial valuation of the applicant's land, to which the applicant objected by his letter dated 24 February 2000, took into account the heritage restrictions affecting the subject land and adjoining lands. The third paragraph of the letter from the respondent to the applicant dated 7 April 2000 which is annexure B to the applicant's affidavit sworn 13 November 2000 was an attempt by the respondent to explain why the valuer is required to ignore the heritage restrictions as they apply to improvements on the land in determining land value, in contrast to the position where a conservation order under the Heritage Act is in place, or to the position with respect to land tax.*

30. Intensive cross-examination of Mr Croker did not undermine his affidavit evidence. He said that he had been involved in the consideration of the Applicant's objection to the original statutory valuation on the sum of \$935,000. In that consideration, he had spoken to the Valuer in the State Valuation Office who had prepared that valuation on behalf of the Valuer General and although he (Mr Croker) was satisfied that he had had regard to the heritage restrictions operating under the LEP in respect of the Applicant's property, Mr Croker considered that the objections raised warranted a greater reduction in the valuation on account of the relevant heritage restrictions. Mr Croker stated that the valuation task of determining the land value of land upon which was erected a heritage building was an intrinsically difficult task because in the nature of things, there could be no sales evidence of heritage properties as **vacant land** (because by definition, it was the existence upon the land of a heritage listed building which gave the land the status as a heritage property).

31. Mr Croker did concede that the advice concerning "heritage restrictions" in the Valuer General's letter to the Applicant dated 7 April 2000 was "badly worded" inasmuch as it did not achieve its aim of clarifying the difference between (i) the land value under the Valuation of Land Act of a property containing a heritage listed building; and (ii) the land value of the same property under the *Land Tax Management Act 1956*, which contains in s 60 specific provision for giving effect to heritage restrictions.

E. THE COMPETING ARGUMENTS

32. The parties' competing arguments accept as the fundamental foundation for the exercise of the Court's discretion in relation to costs, the **Court's Practice Direction Par 10A** which relevantly states:

The practice of the Court is that no order for costs is made in valuation appeals.....in class 3 of the Court's jurisdiction, unless the circumstances are exceptional.

33. As I recently pointed out in *Tenstat Chullora No 2 Trust v Valuer General* (2000) 110 LGERA 227 at 230/231 prior to the introduction in 1996 of par 10A into the Court's Practice Direction, the decided cases involving valuation objections or appeals revealed divergent approaches taken by different judges of the Court to the question of costs, but its introduction had thankfully eliminated the previous uncertainty as to the disposition of costs orders.

34. In the present case, it is accepted by each of the Applicants that it is necessary for them to establish exceptional circumstances if they are to obtain a costs order against the Respondent in the proceedings.

35. In his very helpful address, Mr Jenkyn has collected the various decisions in this Court in which costs orders have been made conformably to the Court's Practice Direction on costs in building and development appeals (**par 10**).. The decided cases provide helpful illustrations of circumstances which have been held to be "*exceptional*" for the purposes of the Court's Practice Direction. The circumstances have not been exhaustively defined. Nor have they been closed, although there has been developed, over the years, defined categories or classes of "*exceptional*" circumstances that have been recognised in the decided cases.

36. I note in passing that since **Par 10A** was introduced into the Court's Practice Direction in 1996, I know of no case (nor was I referred to any case) in which costs have been awarded in a valuation appeal.

37. In support of his claim to costs, Mr Jenkyn has placed principal reliance upon three matters—
(i.) the consent orders determining the land value in the sum of **\$675,000** establish that the amended statutory valuation of **\$790,000** (or **\$750,000**) was erroneous;
(ii.) the error in the statutory valuation (which can be traced back to the Valuer-General's advice on the effect of heritage restrictions contained in his letter dated 7 April 2000 to the Applicant) was an error of fundamental valuation principle in the determination of the land value of a property affected by heritage restrictions in force under the LEP; and
(iii.) in order to expose that error, the Applicant had been compelled to commence the present

proceedings and to vigorously and assiduously prosecute them to their conclusion which was achieved by the making of the consent orders.

38. In my judgment, the Applicant has not made good these submissions.

39. As to the first matter relied upon by the Applicant, whereas it is a truism that the Court's power under the *Valuation of Land Act*, s 39 to order the alteration of the statutory valuation depends upon the fulfilment of two pre-conditions, namely—

- (i.) the upholding of the objection made under the Act; and
- (ii.) a finding that the statutory valuation was erroneous (see *Tenstat* at p 232),

there is nothing pejorative or condemnatory in a finding that the statutory valuation was “erroneous”, having regard to the intrinsic and true nature of all valuations: see *Secretary of State for Foreign Affairs v Charlesworth Pilling and Co* (1901) AC 373 at 391; *Leichhardt Municipal Council v Seatainer Terminals* (1981) 48 LGRA 409 at 436.

40. As was recently held by Lloyd J in *Maurici v Chief Commissioner of State Revenue (No 3)* (2000) 107 LGRA 222 at 237, a significant reduction by virtue of the Court upholding an appeal against the statutory valuation, is not an “exceptional circumstance”, within the meaning of the Court's Practice Direction.

41. As to the second matter relied upon by the Applicant, I have not been satisfied on the evidence, that any such error of fundamental valuation principle has been made. On the contrary, the combined force of the (i) evidence of Mr Croker (which I accept), (ii) the contents of his valuation report (**Exhibit A**) filed in the proceedings and (iii) the contents of the experts' Joint Report to the Court, entirely satisfy me that no such error was made by the Valuer General either in his decision on the Applicant's objection to the original statutory valuation or in his case preparation for the hearing of the Applicant's appeal (which was not ultimately required following the parties' agreement to settle the case). Indeed, I am left with more than a faint suspicion that it is the Applicant and his expert valuer who may not have fully appreciated the distinction between the *Valuation of Land Act*, s 6A and the *Land Tax Management Act 1956*, s 60, as these two provisions respectively operate in the case of the determination of the land value of a property upon which is erected a heritage listed building. In a nutshell, the Applicant and his valuer appear to have assumed that the *Valuation of Land Act*, s 6A(2) achieves the same practical result in the determination of the land value of a property affected by heritage restrictions as is achieved by the *Land Tax Management Act*, s 60. In my opinion, this is an incorrect assumption.

42. As to the third matter relied upon by the Applicant, my findings in relation to the matter just discussed are also relevant at this point, and lead me to the conclusion that whatever may have motivated the Applicant to bring the proceedings, the result achieved in the proceedings has **not** exposed any fundamental error of valuation principle committed by the Valuer General.

43. The most that can be made of the result in the proceedings (by virtue of the making of the consent orders) is that the Applicant has been successful in having the statutory valuation of his property reduced from \$750,000 to \$675,000. But neither this result itself, nor the means of achieving the result by prosecuting the appeal in the manner and to the extent that the Applicant did, establishes “*exceptional circumstances*” within the meaning of the Court’s Practice Direction cf. *Maurici* at 237.

44. In so concluding, I have given close attention to the question whether what the Respondent concedes to be the “*badly worded*” advice contained in the Valuer-General’s letter dated 7 April 2000 to the Applicant, has materially misled the Applicant or otherwise induced him to commence the proceedings and to prosecute them unnecessarily thereby incurring considerable costs and expenses.

45. Ultimately, I have concluded that the Valuer-General’s advice, though deficient in its attempted exposition of the differences between (i) land value determined under the *Valuation of Land Act*, s 6A; and (ii) land value determined under s 60 of the *Land Tax Management Act* (cf “*heritage*” valuations made under s 123 of the *Heritage Act 1977*) did not necessitate the commencement and prosecution of the Applicant’s proceedings.

46. It is to be noted that the need for such an exposition arose directly from the Applicant’s objection which itself had injected into the debate, perhaps unwittingly, the effect of the *Land Tax Management Act*, s 60 (which has no application in the present case).

47. Rather, the Applicant by appealing freely chose to exercise his statutory rights under the *Valuation of Land Act*, s 38, just as he freely chose to prosecute the proceedings after the Solicitors for the Valuer General had informed him on 31 July 2000 (not long after the commencement of the proceedings and before the costs that were subsequently incurred, were required to be spent) that the amended statutory valuation had reflected the impact upon land value of the heritage restrictions under the LEP applying to his property.

48. For all the foregoing reasons, I have not been satisfied by the Applicant’s case that there are exceptional circumstances that warrant an order for costs in accordance with the **Court’s Practice Direction Par 10A**.

49. Accordingly, each of the Applicant’s Motions must be dismissed.

50. The Respondent seeks his costs on each Motion. Conformably to my decision in *Tenstat* and the decision of Lloyd J in *Maurici*, the Respondent having successfully resisted the Applicant’s

Motions, is entitled to his costs on the Motion.

F. ORDERS

51. Accordingly, I make the following orders:

1. Each Applicant's Notice of Motion seeking costs is dismissed.
2. Each Applicant shall pay the Respondent's costs on the Motion in the sum agreed, or failing agreement, as assessed.

[Previous Page](#) | [Back to CASELAW ONLINE](#) | [Top of Page](#) |

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NOTICE OF MOTION

PLANNING ST IVES CENTRE

Notice of Motion from Councillor L Bennett dated 31 October 2005.

I move:

- "A. That the preliminary exhibition of the planning material for the St Ives Centre include a Public Domain Plan which does not have any retail, residential or commercial development on what is now community land.
- B. That the maximum floor space for additional retail and commercial development to be placed on preliminary exhibition for the St Ives Centre not exceed the amount as resolved by Council on 19th July 2005.
- C. That commercial floor space be provided for as part of the mixed zoning as per the Council Report in the 19 July Business Papers.
- D. That the increase in retail floor space as resolved on the 19th July be clarified to mean an increase in gross floor area.
- E. That Council write to NSROC to seek its views as to whether the increase in retail/commercial recommended by the retail study is viable on a regional rather than simply a local basis."

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cr Laura Bennett
Councillor for St Ives Ward