

# ORDINARY MEETING OF COUNCIL TO BE HELD ON TUESDAY, 9 NOVEMBER 2004 AT 7.00PM LEVEL 3, COUNCIL CHAMBERS

### **A G E N D A** \*\* \*\* \*\* \*\* \*\* \*\*

NOTE: For full details, see Council's website – <u>www.kmc.nsw.gov.au</u> 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 19 October 2004 Minutes numbered 504 to 520

# **MINUTES FROM THE MAYOR**

# PETITIONS

# PT.1 Bring Back Container Deposit Legislation (Thirty-One [31] Signatures)

File: S02294

"We, the undersigned, urge the NSW government to follow the example of the South Australian government and formulate container deposit legislation (CDL). We believe that litter will be substantially reduced if this policy is implemented."

# PT.2 Installation Of Lights Required At St Ives Village Green Skateboard Park (Thirty [30] Signatures)

File: S02620

Letter from Rowan Bosman & Ryan Bresler requesting that lights be installed at the Skate Park in St Ives Village Green:

"Both Rowan & Ryan have been researching lights at the St Ives Skate Park. There has been issues at the Skate Park about lights at the skateboard park. The reasons for having lights at the Skate Park is for skaters & bikers safety. It is also so that at night, you can see what people get up to & sometimes they do bad things like smoke & light bins on fire & if we had lights then we would be able to solve the problem & security could see them & tell them off.

The skateboarders & bikers that do the bad things would stop because they know that they are going to get caught. The local public want to be re-assured that their kids are going to the Skate Park just to skate and not be naughty.

In winter, it gets darker quicker that's why we need light at the Park so children & teenagers can have fun for longer."

### **REPORTS FROM COMMITTEES**

#### Minutes of Ku-ring-gai Traffic Committee

File: S02110 Meeting held 21 October 2004 Minutes numbered KTC25 to KTC27

#### **Minutes of Inspections Committee**

File: S02131 Meeting held 30 October 2004 Minutes to be circulated separately

#### **GENERAL BUSINESS**

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

# GB.1 12 Kanoona Avenue, St Ives - Demolition Of The Existing Dwelling And The Construction Of An Attached Dual Occupancy

1

File: 33/04

Ward: St Ives Applicant: Architectural Design Services Owner: Mr B & Mrs L Sternberg

To determine Development Application 33/04, which seeks consent for the demolition of the existing dwelling and the construction of an attached dual occupancy.

#### **Recommendation:**

Approval

# GB.2 62a-64a Killeaton Street, St Ives - Demolition Of Existing Structures And Erection 36 Of A SEPP (Seniors Living) 2004 Development Of 10 Units Within 2 Buildings And Associated Parking And Landscaping

File: 458/04

Ward: St Ives Applicant: Colonial State Properties Pty Ltd Owner: R. Jackson, G. Murray and J. Sanders

To determine Development Application 458/04 which seeks consent for the demolition of existing structures and the construction of a Seniors Living development.

102

#### **Recommendation:**

Approval

### GB.3 4 Moore Street, Roseville - Demolition Of The Existing Dwelling And Construction Of An Attached Dual Occupancy

File: DA 173/04

Ward: Roseville Applicant: Mr Surinder Yadav Owner: Surinder and Anita Yadav

To determine an application for demolition of the existing dwelling and construction of an attached dual occupancy. Council has resolved that dual occupancy development applications are not to be determined under delegated authority.

#### **Recommendation:**

Approval

# GB.421 Banool Avenue, St Ives - Demolition Of The Existing Dwelling And140Construction Of An Attached Dual Occupancy140

File: DA1394/03

Ward: St Ives Applicant: Mr and Mrs Sassin & Masterton Owner: Mrs R Sassin

To determine development application No 1394/03, which seeks consent for the construction of an attached dual occupancy.

#### **Recommendation:**

Approval

# GB.5 8 Killeaton Street, St Ives - Subdivision Of One (1) Allotment To Create Two (2) Allotments And The Demolition Of The Dwelling, Outbuildings, Carport And Swimming Pool

File: DA244/04

Ward: St Ives Applicant: Mr E Song Owner: Mr Q Y Song & Mrs M Feng

To determine Development Application 244/04 which seeks consent for the subdivision of the site into two (2) Torrens Title allotments and the demolition of the existing dwelling, swimming pool and outbuildings.

#### **Recommendation:**

Approval

# GB.6Report On Catchment Analysis For Cowan Creek And Middle Harbour194Catchments

File: S02500

To report findings of the analysis and planning for the Cowan Creek and Middle Harbour catchments.

#### **Recommendation:**

That Council receive and note the report and findings of the Middle Harbour and Cowan Catchment Local Catchment Plans.

#### GB.7 Tender For Lane Cove Sub Catchment Analysis

211

File: S03651

To seek Council's approval to appoint two consultants to undertake the sub-catchment stormwater analysis and planning for the Lane Cove catchment.

#### **Recommendation:**

That Council adopt recommendations A to E as printed in the report.

# GB.8 Investment Cash Flow & Loan Liability As At 30 September 2004

File: S02722

To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for September 2004.

#### **Recommendation:**

That the summary of investments, daily cash flows and loan liability for September 2004 be received and noted.

# GB.9 Council Meeting Cycle - Christmas Recess

225

217

File: S02355

To give consideration to the meeting schedule for December 2004, January and February 2005 and granting the appropriate Delegation of Authority to the Mayor, Deputy Mayor and General Manager during the recess period.

### **Recommendation:**

That the last meeting for 2004 be held on Tuesday, 14 December 2004 and that the normal meeting cycle resume on Tuesday, 8 February 2005.

#### GB.10 Piping Of Open Channel In 13 & 13a Wolsten Avenue, Turramurra

File: P63450, P63455

To consider a request to pipe the open channel in 13 and 13A Wolsten Avenue, Turramurra.

#### **Recommendation:**

That Council approve in principle the piping of the channel subject to recommendations in items (1) to (7).

### **GB.11** Policy On Drainage Works And Maintenance

File: S02773

To seek Council's approval for a policy and procedures for drainage works and maintenance including a five year drainage program.

#### **Recommendation:**

That Council adopt the Draft Policy for Drainage Works and Maintenance Procedures Including 2004/05-2008/09 Program and places it on public exhibition.

235

228

# GB.12Proposed Draft Local Environmental Plan - Dual Occupancy Subdivision/Child254Care Centres/26 - 28 Turramurra Avenue And 33 - 35 Gilroy Road, Turramurra

File: S03843

To seek Council's endorsement of the issues to be included in proposed Draft Local Environmental Plan No 204.

#### **Recommendation:**

That Council resolve to extend the provisions of proposed Draft LEP 204 to include the introduction of Child Care Centres as a permissible use in lands covered by LEP 194 and to correct the Ministers mapping error in the gazettal of LEP 194.

### **GB.13** Draft Development Control Plan No 56 – Notification

262

288

File: S03673

To present to Council Draft Development Control Plan No 56 (Draft DCP No 56) - Notification for exhibition.

#### **Recommendation:**

That Draft DCP No 56 be placed on exhibition and notified in accordance with the provision of the EP&A Act. That a report be brought back to Council following the exhibition period.

### GB.14 Analysis Of Land & Environment Court Costs 1st Quarter 2004/2005

File: S02466

To provide information in relation to proceedings to which Council is a party in the Land and Environment Court for the quarter ended September 2004, including appeals commenced, costs incurred by Council and outcomes.

#### **Recommendation:**

That the analysis of Land & Environment Court costs for the first quarter 2004 be received and noted.

# EXTRA REPORTS CIRCULATED AT MEETING

# MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

# NM.1 Council Committees

299

File: S03324

#### Notice of Motion from Councillor E Malicki dated 25 October 2004.

I move:

- A. That all Council committees, informal or community, be open to Press and Public except for the closure conditions of the Local Government Act.
- B. That minutes be taken of every Council committee and that these be available on Council's website.

#### NM.2 E-Notification Of DA's

300

File: S02137

#### Notice of Motion from Councillor L Bennett dated 1 November 2004.

I move:

- A. That the General Manager bring a report to Council on e-notification of DA's with special reference to the model adopted by Pittwater Council. Such a report to include detailed costings of the introduction and running of such a service.
- B. That options to deal with problems relating to the notification of residents living in apartment buildings, S.96 applications and changes to heritage items be presented to the Planning Committee.
- C. That Council consideration of the draft DCP for Notification be deferred pending the completion of the processes in parts A and B of the motion.

#### **BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION**

#### **QUESTIONS WITHOUT NOTICE**

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

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

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

#### 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.*

S02294 15 October 2004

# PETITION

# BRING BACK CONTAINER DEPOSIT LEGISLATION (THIRTY-ONE [31] SIGNATURES)

"We, the undersigned, urge the NSW government to follow the example of the South Australian government and formulate container deposit legislation (CDL). We believe that litter will be substantially reduced if this policy is implemented."

# RECOMMENDATION

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

S02620 15 October 2004

# PETITION

# INSTALLATION OF LIGHTS REQUIRED AT ST IVES VILLAGE GREEN SKATEBOARD PARK (THIRTY [30] SIGNATURES)

Letter from Rowan Bosman & Ryan Bresler requesting that lights be installed at the Skate Park in St Ives Village Green:

"Both Rowan & Ryan have been researching lights at the St Ives Skate Park. There has been issues at the Skate Park about lights at the skateboard park. The reasons for having lights at the Skate Park is for skaters & bikers safety. It is also so that at night, you can see what people get up to & sometimes they do bad things like smoke & light bins on fire & if we had lights then we would be able to solve the problem & security could see them & tell them off.

The skateboarders & bikers that do the bad things would stop because they know that they are going to get caught. The local public want to be re-assured that their kids are going to the Skate Park just to skate and not be naughty.

In winter, it gets darker quicker that's why we need light at the Park so children & teenagers can have fun for longer."

# RECOMMENDATION

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

1 / 1 12 Kanoona Avenue, St Ives 33/04 29 October 2004

# **DEVELOPMENT APPLICATION**

SUMMARY SHEET

REPORT TITLE:	12 KANOONA AVENUE, ST IVES - DEMOLITION OF THE EXISTING DWELLING AND THE CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY
WARD:	St Ives
DEVELOPMENT APPLICATION N <sup>O</sup> :	33/04
SUBJECT LAND:	12 Kanoona Avenue, St Ives
APPLICANT:	Architectural Design Services
OWNER:	Mr B & Mrs L Sternberg
DESIGNER:	Maria Stavrianos, Architect
PRESENT USE:	Residential Dwelling House
ZONING:	Residential 2(c)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Development Control Plan 43 - Car Parking, Development Control Plan 40 - Waste Management, Dual Occupancy Development Control Code
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy 53
	State Environmental Planning Policy 55
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	13 January 2004, Amended 14th July 2004
40 DAY PERIOD EXPIRED:	22 February 2004
PROPOSAL:	Demolition of the existing dwelling and the construction of an attached dual occupancy
RECOMMENDATION:	Approval

DEVELOPMENT APPLICATION N <sup>O</sup>	33/04
PREMISES:	12 KANOONA AVENUE, ST IVES
PROPOSAL:	DEMOLITION OF THE EXISTING
	DWELLING AND THE CONSTRUCTION OF
	AN ATTACHED DUAL OCCUPANCY
APPLICANT:	ARCHITECTURAL DESIGN SERVICES
OWNER:	MR B & MRS L STERNBERG
DESIGNER	MARIA STAVRIANOS, ARCHITECT

### PURPOSE FOR REPORT

To determine Development Application 33/04, which seeks consent for the demolition of the existing dwelling and the construction of an attached dual occupancy.

### EXECUTIVE SUMMARY

Issues:	Streetscape.
Submissions:	Two submissions were received. One submission was received in support of the development application, the other submission raised minor concerns.
Land and Environment Court Appeal:	Not applicable.
<b>Recommendation:</b>	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:**

#### DA33/04

13/01/04 15/01/04 - 3/02/04 25/05/04 18/6/04 30/6/04	DA lodged with Council. Notification period. Update letter sent to applicant. Letter sent to applicant raining concern with the application. Meeting with the applicant.
30/6/04	Meeting with the applicant.
14/7/04	Amended plans received.

There is no other DA history relevant to the proposed development.

# THE SITE & SURROUNDING AREA

#### The site:

Zoning:	Residential 2(c)
Visual Character Study Category:	1945-1968
Lot Number:	25
DP Number:	15689
Area:	$790.4m^2$
Side of Street:	Northern
Cross Fall:	To the street
Stormwater Drainage:	Existing - Kanoona Street
Heritage Affected:	No
Required Setback:	12 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The subject site comprises Lot 25 in DP 15689 and is known as 12 Kanoona Street, St Ives. The site is a regular shaped corner allotment, located on the northern side of Kanoona Road between Collins Road and Cowan Road, St Ives.

The subject site consists of a modest single storey brick and tile dwelling with garage located within a garden setting comprising mature trees and shrubs. The existing house was built c1950. The house has no heritage value.

#### Surrounding development:

The locality consists of single and two storey dwellings, including subdivided attached and detached dual occupancies on either side of the subject property and a recently completed two storey SEPP 5 development located diagonally opposite the subject site at 3 Kanoona Avenue (refer DA No.0557/03).

# THE PROPOSAL

The proposal is for the demolition of the existing structures and the construction of two by two storey dwellings as an attached dual occupancy development.

Both dwellings will have three bedrooms and car parking for 2 vehicles. Both dwellings are similar in size. Details of the development are as follows:

# Ground level

The dwellings comprise living and dining rooms, kitchen, study, laundry, toilet, garage and carport.

#### ltem 1

### First floor

Comprises three bedrooms, ensuite, bathroom and small balcony off the main bedroom.

### Amended plans received 14/07/2004

The amended plans modified the development in the following way:

- Highlighting the entry path to the portico with contrasting paving that extends out along the driveway along the landscaping strip;
- Artificial lighting along the entry path, making the entry more obvious at night;
- Additional landscaping between the two dwellings within the driveway which clearly separates the two from each other;
- Increase natural lighting within the portico area by replacing the existing skylight window with a substantial glass roof area that runs the width and length of the entry path under the portico area;
- Position of front entry doors relocated to a more direct entry path location so that a car can be parked on either side of this front entry path, respectively;
- The relocation of the front entry door of each dwelling to be in direct view of the entry path;
- Removal of the textured square column look on the side of the garage except for the front portico to emphasise the front portico as the main entrance;

# **CONSULTATION - COMMUNITY**

In accordance with Council's Notification Policy, adjoining owners were given notice of the application on 15<sup>th</sup> January. In response, two (2) submissions were received:

1. Mr. Norman Ashelford - 88 Killeaton Street, St Ives

NB this submission was in support of the development.

2. Mr. F. H. Dell - 10A Kanoona Avenue, St Ives.

This submission, opposing the application, raised the following issues:

# Inappropriate roof material

"I request that a condition be placed restricting the use of black gloss tiles for the roof. We already have had experience of the adverse effect of this gloss tile from the dual occupancy at 10 Kanoona Avenue, which annoyingly shimmers in the sunlight."

A condition has been imposed not permitting black gloss tiles (as were used at the 10 Kanoona Avenue dual occupancy development). The architect has indicated that the owner prefers a matt tile (Monier Cambridge Welsh Black) which will not shimmer in the sunlight. A condition has been imposed requesting the use of a matt finish to the tiles (*Refer Condition No. 4*).

#### Item 1

# Privacy landscaping

"The application includes a photo of the view to the north, inferring that there will be privacy to neighbours. This shows a deciduous 'Golden Boxelder' in my garden fully covered in leaf. This tree begins to loose its leaves before autumn begin and does not leaf until early spring."

The amended landscape plan shows additional evergreen screen planting, capable of attaining a mature height of 2 to 3 metres, on the northern boundary. This screen planting is sufficient to afford privacy between the subject development and the neighbouring property (No. 10A Kanoona Avenue). **Condition 51** requires the DA to adhere to the details shown in the amended landscape plan.

### Plan discrepancy

"It seems that the roof and site analysis plan show a hip roof and the elevations and section show a gable."

The objector is correct, according to the applicant, a printing error occurred and the correct roofline is a gable. Correct roof and site plans were submitted on 14/07/2004.

# **CONSULTATION - WITHIN COUNCIL**

### **Development Control Engineer**

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

"This DA is recommended for approval, subject to engineering conditions."

These engineering conditions have been included within the recommendation (*refer Condition Nos.* 37-45, 53-56, 76-79).

# Landscape Development Officer

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

"An inspection of the property was conducted on the 14<sup>th</sup> April 2004. The proposed attached dual occupancy dwelling and driveway have been located to avoid a large Syzygium sp. (Lillypilly) located at the front of the site. Three mature trees at the rear of the site are also unaffected by the proposed building. The property supports the required number of canopy trees."

Council's Landscape Development Officer has recommended approval subject to conditions to protect trees and to secure landscaping bonds (*refer Condition Nos.46-51, 66-68, 73-75*).

# STATUTORY PROVISIONS

# **State Environmental Planning Policy No 53**

COMPLIANCE TABLE		
Development standards	Proposed	Complies
Allotment size (cl.19(1)(a)) • 400m <sup>2</sup> attached dual occ. (min)	790.4m <sup>2</sup>	YES
<b>Floor space ratio (cl.19(1)(b))</b> • 0.5:1 (max)	0.45:1 (355.7m <sup>2</sup> )	YES
<ul> <li>Car parking (cl.20)</li> <li>Dwelling 1: 2 car spaces (min)</li> <li>Dwelling 2: 2 car spaces (min)</li> </ul>	Dwelling 1: 2 car spaces Dwelling 2: 2 car spaces	YES YES

### Site analysis (cl.31):

The documentation submitted with the application is considered satisfactory with respect to the requirements of clause 31 and Schedule 5 of SEPP 53.

# Streetscape (cl.32(a)):

The proposed development will be of suitable appearance and satisfies the streetscape principles of SEPP 53. The scale and bulk of the proposal is compatible with those found in the locality, being a combination of single and two storey dwellings as well as a number of dual occupancies and a recently completed SEPP 5 development.

# Visual and acoustic privacy(cl.32(b)):

Adequate private open space has been provided to the rear of each dwelling.

The new dwellings have been designed to reduce privacy impacts. All living rooms are located on the ground floor at the rear of the site and suitable perimeter vegetation which affords sufficient privacy. Additional screen planting to the rear has also been proposed in the revised landscape plans.

As previously stated, the proposed development will not result in any adverse impacts on the privacy and residential amenity of the adjoining properties.

#### Item 1

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

The proposed dwellings will receive adequate solar access to their primary living rooms and outdoor living spaces. The aspect and orientation of the dwellings will provide for adequate amenity for the future occupants.

The proposed development will satisfy the solar access principles of SEPP 53, in that in excess of three hours daylight to the main living areas of neighbouring properties and to the proposed development is provided. Also, adequate sunlight to substantial areas of private open space is maintained.

# Stormwater (cl.32(d)):

Stormwater disposal was considered by the Council's Development Control Engineers and is considered to be satisfactory, subject to the imposition of appropriate standard conditions (*refer to Conditions 54-56*).

# Crime prevention (cl.32(e)):

The proposed dwellings will gain pedestrian and vehicular access from Kanoona Avenue. In addition, the proposed entries at ground floor level allow general observation opportunities of the dwelling entry areas. The occupants of the dwelling will enjoy acceptable levels of both passive and active surveillance in accordance with the crime prevention objectives under State Environmental Planning Policy No 53.

# Accessibility (cl.32(f)):

Safe pedestrian links are available to local facilities from the subject property. Convenient access and parking is available for future residents of the proposed development.

# Waste management (cl.32(g)):

Suitable space exists on the property for the storage of waste management containers.

# Visual bulk (cl.32(h)):

The building form, setbacks and height of the proposed development are consistent with those of surrounding development.

The proposal provides an acceptable response to the built environment of the immediate locality. The architecture within the street is varied in respect to bulk and scale. Having considered the size and scale of the surrounding developments, the proposal is in keeping with the area.

The proposal does not disrupt the character of adjoining buildings and would not detract from the amenity of the area.

# State Environmental Planning Policy No 55 - Remediation of Land

Item 1

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. Council's records do not indicate any evidence of contamination of the subject residential land.

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
<b>Building height</b> 8m (max)	Dwellings 1 and 2: 5.8 metres	YES
	The following information is not a statutory control. This information is provided for the benefit of the Councillors:	
	Height to roof ridge - Dwellings 1 and 2: - 8.0 metres Height to eaves line - Dwellings 1 and 2: - 5.8 metres	
Built-upon area 60% (max)	40 %	YES
Notional built-upon area	Dwelling 1 : 40% Dwelling 2 : 40%	YES YES

# Schedule 9

The development complies in all respects with the aims, objectives and development standards outlined within Schedule 9 of the KPSO.

# **POLICY PROVISIONS**

# **Development Control Plan 40 - Waste Management**

The site is of a sufficient size to accommodate waste storage and recycling facilities associated with the proposed use in accordance with DCP 40. A Waste Management Plan has been submitted and is acceptable.

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

The proposal complies with DCP 43, which requires the provision of two parking spaces for each dwelling.

# **Council's Dual Occupancy Development Control Code**

	COMPLIANCE TABLE	
Development control	Proposed	Complies
4.2 Streetscape:		

N:\041109-OMC-PR-02941-12 KANOONA AVENUE ST IVES.doc/ssegall/8

#### Item 1

Roof pitchDwellings 1 & 2: - 2.4 m• 3m roof height-2 storey (max)Dwellings 1 & 2 - 21°• Roof pitch 35° (max)Dwellings 1 & 2 - 21°FencesHeight:900mm (solid fence) (max)A front fence to Kanoona Avenue is not proposed.• Height:1.2m (transparent fence) (max)A front fence to Kanoona Avenue is not proposed.• Height:1.2m (transparent fence) (max)A front fence to Kanoona Avenue is not proposed.• Height:1.2m (transparent fence) (max)A front fence to Kanoona Avenue is not proposed.• Windows to habitable rooms set back 9m from neighbouring windows (min)Dwellings 1 and 2 have windows to habitable rooms set back 9m from neighbouring windows• Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min)Dwelling 1 and 2 4-6 hours solar access receive 3+ hours of solar• Neighbouring properties receive 3+ hours of solarAll neighbouring properties receive 3+ hours solar	YES YES YES YES
<ul> <li>(max)</li> <li>Roof pitch 35<sup>0</sup> (max)</li> <li>Dwellings 1 &amp; 2 - 21<sup>0</sup></li> <li>Fences         <ul> <li>Height:900mm (solid fence) (max)</li> <li>A front fence to Kanoona Avenue is not proposed.</li> <li>A front fence to Kanoona Avenue is not proposed.</li> <li>1.8 metres high paling fences are proposed along the sides to the rear of the building line and the rear boundaries to contain the private open space of each dwelling.</li> </ul> </li> <li>4.3 Visual and acoustic privacy:         <ul> <li>Windows to habitable rooms set back 9m from neighbouring windows (min)</li> <li>At Solar access and design for climate:</li> <li>Solar access</li> <li>Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min)</li> <li>Neighbouring properties</li> <li>All neighbouring properties receive 3+ hours solar</li> </ul> </li> </ul>	YES
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<ul><li>(min)</li><li>Neighbouring properties</li><li>All neighbouring properties receive 3+ hours solar</li></ul>	
Neighbouring properties     All neighbouring properties receive 3+ hours solar	
receive $3 + 100$ rs of solar $1 = 3$ access	YES
access between 9am and	
3pm (min)	
Energy efficiency	
3.5 star NatHERS Rating     Dwellings 1 and 2	
(min) Both - 3.5 stars	YES
4.7 Accessibility:	
Vehicular access and car	
parking dimensions	
Garage – 3.1m x 5.4m     Dwellings 1 and 2	YES
(min) 3.2 m x 5.5 m	
4.9 Visual bulk:	
Building setbacks	

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Item 1

#### 1 / 10 12 Kanoona Avenue, St Ives 33/04 29 October 2004

• Front: 12 metres	Dwellings 1 and 2: - 17.5 metres.	YES
• Side setback:	The carports forward of the building are setback 12.1 m and the garages forward of the building are setback 13.2 m and are consistent with setbacks of garages of adjoining dual occupancy developments. Dwellings 1 & 2	
1 <sup>st</sup> floor: 2m (min)	2.0 metres	YES
• Rear setback: 3m (min)	Dwellings 1 & 2 12.0m	YES
Building form		
• Unrelieved wall length: 12.0m (max)	Dwellings 1 & 2 11.75m	YES
• Total building length: 24m (max)	Dwellings 1 & 2 23.5 m	YES
Built-upon area		
• Total built upon area (max): 40%	40.0%	YES
• Notional built-upon area	Dwelling 40.0% Dwelling 40.0%	YES YES
Floor space ratio		
• FSR (max): 0.5:1	0.45:1	YES
• $1^{\text{st}}$ floor – 40%	Dwelling 1 & 2: 46.5%	NO
<ul> <li>Height of buildings</li> <li>An attached dual occupancy should not exceed a height of 8 metres.</li> </ul>	The height of dwellings 1 & 2 does not exceed 8.0 metres.	YES
• Building envelope: 45 <sup>0</sup> from horizontal at any point 3m above boundary	Dwelling 1 &2 North boundary: Complies South boundary: Complies East boundary: Complies West boundary: Complies	YES YES YES YES
Cut and fill (building works)		

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• Cut & fill: 900mm & Total 1800mm (max)	Dwellings 1&2 Relatively flat site-less than 900mm cut	YES
Section 5: Landscaping & Op	en Space	
<b>Total soft landscaping :</b>		
60% (min)	60.0%	YES
Notional soft landscaping:	Dwelling 1: 60.0%	YES
rouona son anaseaping.	Dwelling 1: 60.0%	YES
Tree retention and refurbishment		
• No. of Trees: 3 (min)	3 trees	YES
Cut & fill (landscaping)		
• Cut & Fill: 900mm &	800mm (cut) located northern end Dwellings	YES
Total 1800mm	200mm (fill) located southern end Dwellings	YES
Open space provisions		
• Area: $100m^2$ or 2 x $75m^2$	Dwelling 1: 100m <sup>2</sup>	YES
areas (min)	Dwelling 2: 100m <sup>2</sup>	YES
• Min dimension 5m x 5m	Dwelling 1: 8 x 12m	YES
(min)	Dwelling 2: 8 x 12m	YES
• Grade: 1 in 8 (max)	Dwelling 1: 1 in 20	YES
	Dwelling 2: 1 in 20	YES
• 50% receives 3+ hours	Dwelling 1: Open space receives 6 hours solar	YES
solar access (min)	access	YES
	Dwelling 2: Open space receives 6 hours solar access	

# **Visual privacy:**

The proposed new dwellings have been designed to reduce privacy impacts. All living rooms are located on the ground floor at the rear of the site and suitable perimeter vegetation has been proposed. Additional screen planting that attains heights of 2-3 metres to supplement the retained trees to the rear has been proposed. This planting provides adequate privacy to No.10A Kanoona Avenue which adjoins the site to the west (side).

Item 1

#### Floor space ratio:

Despite the minor non-compliance with the FSR as it applies to first floor levels, the development will not dominate the street due to its stepped design. The bulk and scale of the new dwelling is consistent with those of the surrounding local context.

#### Fencing:

1.8 metres high fencing is proposed to the rear of the building line to Kanoona Avenue. There is no fencing proposed along Kanoona road or forward of the building line.

### Likely Impacts

The design responds appropriately to the sites topography and surroundings and will have minimal impact on the adjoining properties. There will be no adverse impacts upon the streetscape on the character of the locality.

### Suitability of the Site

The land is of a satisfactory shape and size to accommodate the proposed development and to enable it to integrate with the surrounding development and provide a suitable level of amenity for future occupants. Utility services are available to the site and there are not any site hazards such as landslip, etc. The site is therefore suitable for the proposed development.

# **Any Submissions**

The submissions received by Council have been discussed throughout the body of the report and, where appropriate, conditions have been recommended to resolve the objectors' concerns.

#### **Public Interest**

The proposal is compatible with the existing environment and its approval is in the wider public interest as envisaged by SEPP 53.

#### Section 94

This proposal will be subject to the provisions of Council's adopted Section 94 Contributions Plan for Residential Development. The monetary contribution is required to be paid by *Condition 62* of the recommended consent.

# Any other Relevant Matters Considerations Not Already Addressed

There are no other relevant matters.

# CONCLUSION

#### Item 1

The proposal is permissible with consent under the provisions of SEPP 53. The proposal complies with the aims, objectives and development standards of the environmental planning instruments applying to dual occupancies.

The development will provide greater housing choice. The proposal will provide a satisfactory level of amenity for future occupants and will not have an adverse affect upon the amenity of the adjoining properties or the character of the surrounding area.

# RECOMMENDATION

That Development Application No 33/04 for the demolition of the existing dwelling and the construction of an attached dual occupancy on Lot 25, DP 15689, 12 Kanoona Avenue, St Ives, be approved for a period of 2 years from the date of determination, subject to the following conditions:

# GENERAL CONDITIONS

- 1. The development to be in accordance with Development Application No 33/04 and Development Application plans prepared by Architectural Design Services (Maria Stavrianos, Architect), Job 2016, reference number 01B, 02B, and 03B, dated 23-07-04 and lodged with Council on 2 August 2004.
- 2. All building works shall comply with the Building Code of Australia.
- 3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
- 4. External finishes and colours are to be sympathetic to the surrounding built environment. Monier Cambridge Welsh Black or similar matt-type finish roof tiling shall be used to ensure limited glare.
- 5. 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.
- 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, buildozers, 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. 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.
- 11. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
- 12. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
- 13. To maintain existing ground levels all excavated material shall be removed from the site.
- 14. 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.
- 15. 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.
- 16. 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.
- 17. For the purpose of maintaining visual amenity, no permanent electricity supply poles are to be erected forward of the building setback without the prior Consent of Council. It is the onus of the applicant to consult with the authorised statutory electricity provider prior to construction commencing to ensure that direct connection to the building is possible. Details of any proposed permanent pole must be submitted to and approved by Council prior to installation.
- 18. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
- 19. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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

- 20. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
  - 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.

21. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

- Item 1
- 22. 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.
- 23. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
- 24. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
- 25. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
- 26. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

- 27. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
- 28. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
  - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
    - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
    - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
    - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
  - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other

matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.

- 29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
- 30. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
- 31. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a. stating that unauthorised entry to the work site is prohibited, and
  - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
- b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
- 32. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
- 33. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%) capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.
- 34. 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.
- 35. 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.
- 36. 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.
- 37. 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. 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.

- 38. An on-site stormwater detention system must be provided for each dwelling in accordance with Council's requirements described in chapter 6 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website. Separate systems are to be provided for each residence, except where a single combined system may be located in a common location readily accessible by both owners (such as under a shared driveway). In this case appropriate cross burdens are to be created on title(s) as necessary.
- 39. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
- 40. For the purpose of any Council inspections, the appropriate fees set out in Councils adopted Schedule of Fees and Charges are payable to Council, prior to the release of the approved plans. A re-inspection fee per visit may be charged where remedial work is unprepared at the requested time of inspection or where remedial work is unsatisfactory and a further inspection is requested. Engineering fees must be paid prior to the final approval of the works.
- 41. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at <u>www.sydneywater.com.au</u> 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.
- 42. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
- 43. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained**,

# and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

- 44. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
- 45. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access, accommodation arrangements and passing opportunities must be designed and constructed to comply with Australian Standard AS 2890.1 "Off-Street car parking".
- 46. 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.
- 47. 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.
- 48. Landscape works shall be carried out in accordance with Landscape Drawing No 03.757 prepared by Greenplan and dated 2.08.04 submitted with the Development Application, except as amended by the following:
  - No retaining walls shall be located along any boundaries except adjacent to the garage of townhouse 1. The retaining walls required to contain excavation associated with the building shall be located 1 metre outside the line of the building except where drying areas occur. In this instance the walls can be indented around this area. No excavation is permitted beyond the retaining wall locations. Note that no retaining wall is required adjacent to the garage to townhouse 2 because of the drop edge beam used in the garage.
  - No front fence or wall is approved under this consent.
- 49. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug:

Tree/Location Tree 2 - *Syzygium paniculatum* (Brush Cherry)/ South West corner of the site Radius From Trunk

6m

#### Item 1

- 50. 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.
- 51. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
- 52. 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 A CONSTRUCTION CERTIFICATE

53. Prior to issue of the Construction Certificate footpath and driveway levels for any fully new, reconstructed or extended sections of 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.

- Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.
- Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.
- 54. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention

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

- 55. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention system. The design shall be generally based on the concept plan by ACE Civil & Hydraulic Engineers, Drawing No. 0304-69-A1, dated 20/7/04, and shall be advanced for construction issue purposes. 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. The design and construction plans, with all supporting documentation , are to be prepared by a qualified and experienced civil/hydraulic engineer.
- 56. For stormwater retention, provision of a 2000 litre rainwater tank within the subject property designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.
  - NOTE 1: The tank is to be located at or above existing natural ground level.
  - NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.
  - NOTE 3: The tank must not be located on the front façade of a dwelling.
  - NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.
  - NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.
  - NOTE 6: The tank is to be a commercially manufactured tank designed for the use of water supply and to be installed in accordance with manufacturers specifications.
  - NOTE 7: The tank is to be located above an available landscaped area so that the tank may be readily used for watering purposes.
  - NOTE 8: The tank is to be fitted with a standard garden tap or similar which is to be clearly marked as not to be used for drinking purposes.
  - NOTE 9: The tank is to be fitted with measures to prevent mosquito breeding.

- NOTE 10: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied
- NOTE 11: This requirement does not apply where the Applicant considers installation to be impractical.
- 57. 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.

- 58. 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).
- 59. 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.
- 60. 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.
- 61. To ensure structural stability, engineer's details (in duplicate) of retaining walls, prepared by a qualified practising structural engineer, shall be submitted to the Principal Certifying Authority for consideration prior to the issue of the Construction Certificate.
- 62. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLING IS CURRENTLY \$33,057.22. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

# OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm)	1.25 persons
Medium dwelling (75 - under 110 sqm)	1.75 persons

- 2.75 persons3.5 persons3.5 persons
- 63. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the Application.

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

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

- Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.
- Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level (if applicable) of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.
- 64. For vehicular access to the proposed garages, each garage is to be set down a minimum of 500mm below the levels shown in the approved plans. Amended plans are to be submitted to the Principal Certifying Authority and approved prior to issue of the Construction Certificate.
- 65. Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be provided for approval by the Principal Certifying Authority (PCA). These are to be along both sides of the proposed driveway from the centreline of the frontage street to the proposed garage/carport slab, demonstrating that vehicular access can be obtained using grades of 20% (25% maximum) or less without scraping the underside of a car. All changes in grade are to comply with Australian Standard 2890.1 2004 "Off-street car parking". If a new driveway crossing is proposed then the longitudinal sections must incorporate a layback to Council's standard and the driveway crossing levels as issued by Council upon prior application at Customer Services.
- 66. A CASH BOND/BANK GUARANTEE of \$2,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure

#### Item 1

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.

- 67. The following changes shall be shown on the architectural plans and stormwater plans submitted with the Construction Certificate application:
  - The eastern wall to the garage of townhouse 2 shall use a drop edge beam so that all fill required under the garage is contained within the footprint of the garage. No fill shall be placed between the garage and the side boundary.
  - No retaining walls shall be located along any boundaries except adjacent to the garage of townhouse 1. The retaining walls required to contain excavation associated with the building shall be located 1 metre outside the line of the building except where drying areas occur. In this instance the walls can be indented around this area. No excavation is permitted beyond the retaining wall locations. Note that no retaining wall is required adjacent to the garage to townhouse 2 because of the drop edge beam used in the garage.
  - The retaining walls shall be relocated as indicated in previous dot point on the stormwater plans and grates and drainage lines relocated closer to the building accordingly
- 68. A CASH BOND/BANK GUARANTEE of \$3000 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Tree 2 - Syzygium paniculatum (Brush Cherry)/ South West corner of the site

#### Item 1

69. 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.

# CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

- 70. 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.
- 71. To preserve and enhance the natural environment, the downslope side of the proposed construction area of the site is to be enclosed with a suitable erosion control barrier (e.g. straw bales or geofabric fence) along contour before any other work on the site commences.
- 72. For stormwater control and to preserve and enhance the natural and built environment, a Sediment and Erosion Control Plan relating to all areas of the site to be disturbed or affected by earthworks or construction works shall be submitted and approved with the application for a Construction Certificate. The Control Plan shall include all details of measures and methods of sediment and erosion control to be adopted, implemented and methods of sediment and erosion control to be adopted, implemented and maintained during the course of development of the site. The Control Plan shall incorporate and disclose:
  - a. All details of drainage to protect and drain the site during the construction processes;
  - b. All sediment control devices, barriers and the like;
  - c. Sedimentation tanks, ponds or the like;
  - d. Covering materials and methods;
  - e. A schedule and program of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- 73. 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
Tree 2 - <i>Syzygium paniculatum</i> (Brush Cherry)/ South West corner of the site	5m (within the property)
Tree 3 - Quercus robur (English Oak)	4m
Tree 4 - Eucalypt	4m
Tree 5 - Unidentified/	4m
All located near rear Northern boundary - fen	
- 74. 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.
- 75. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

## CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

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

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

- 77. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, or the issue of an Occupation Certificate or the issue of a Subdivision Certificate.
- 78. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced civil/hydraulic engineer, prior to occupation, or the issue of an Occupation Certificate, or the issue of s Subdivision Certificate, that:
  - The works were carried out and completed in accordance with the approved plans.
  - All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier Prior to issue of the Final Compliance Certificate.

79. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must to also complete and submit Council's standard Onsite Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage system with the approved plans
- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.
- All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

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

### **BUILDING CONDITIONS**

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

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

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

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

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

- 82. 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.

83. Termite protection which will provide whole of building protection in accordance with Australian Standard 3660 - "*Protection of Buildings from Subterranean Termites*" is to be provided.

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

Where a monolithic slab is used as part of a termite barrier system, the slab shall be constructed in accordance with Australian Standard 2870.1 or as designed by a structural engineer but in either case shall be vibrated to achieve maximum compaction.

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

S. Segall Executive Planner G. Bolton Team Leader – St Ives

M. Prendergast Manager – Development Assessment Services M. Miocic Director – Development and Regulation

## Attachments: Location Sketch Reduced Architectural Plans Landscape Plan

2 / 1 62A-64A Killeaton Street 458/04 20 October 2004

# **DEVELOPMENT APPLICATION**

SUMMARY SHEET

REPORT TITLE:	62A-64A KILLEATON STREET - DEMOLITION OF EXISTING STRUCTURES AND ERECTION OF A SEPP (SENIORS LIVING) 2004 DEVELOPMENT OF 10 UNITS WITHIN 2 BUILDINGS AND ASSOCIATED PARKING AND LANDSCAPING
WARD:	St Ives
DEVELOPMENT APPLICATION N <sup>O</sup> :	458/04
SUBJECT LAND:	62A-64A Killeaton Street
APPLICANT:	Colonial State Properties Pty Ltd
OWNER:	R. Jackson, G. Murray and J. Sanders
DESIGNER:	Fortey and Grant Architecture
PRESENT USE:	Residential
ZONING:	Residential 2(c)
HERITAGE:	No
PERMISSIBLE UNDER:	SEPP (Seniors Living) 2004
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance, Development Code 1/2003 Housing for Older people & people with a disability (Seniors Living) 2004, DCP 40 Waste Management, DCP43 Carparking.
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP1, SEPP (Seniors Living) 2004, SEPP55 Contamination, SREP 20
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	06/05/2004
40 DAY PERIOD EXPIRED:	15 June 2004
PROPOSAL:	Demolition of existing structures and erection of a SEPP (Seniors Living) 2004 Development of 10 units within 2 buildings and associated parking and landscaping
RECOMMENDATION:	Approval

DEVELOPMENT APPLICATION N <sup>O</sup>	458/04
PREMISES:	62A-64A KILLEATON STREET
PROPOSAL:	DEMOLITION OF EXISTING STRUCTURES
	AND ERECTION OF A SEPP (SENIORS
	LIVING) 2004 DEVELOPMENT OF 10 UNITS
	WITHIN 2 BUILDINGS AND ASSOCIATED
	PARKING AND LANDSCAPING
APPLICANT:	COLONIAL STATE PROPERTIES PTY LTD
OWNER:	R. JACKSON, G. MURRAY AND J.
	SANDERS
DESIGNER	FORTEY AND GRANT ARCHITECTURE

# PURPOSE FOR REPORT

To determine Development Application 458/04 which seeks consent for the demolition of existing structures and the construction of a Seniors Living development.

## EXECUTIVE SUMMARY

Issues:	Height of buildings and location of garbage facilities within building
Submissions:	Two submissions received
Land & Environment Court Appeal:	A deemed refusal application was lodged with the Land and Environment Court on the 29 <sup>th</sup> of June 2004 (proceedings No. 10760 of 2004. The matter is set down for callover on 16 November 2004.
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.

# THE SITE AND SURROUNDING AREA

#### The site

Visual Character Study Category:	1945-1968
Lot Number:	103-105
DP Number:	263569
Area:	$4,420m^2$
Side of Street:	Southern
Cross Fall:	To Killeaton street to the north

Stormwater Drainage:	Drainage easement to Killeaton Street
Heritage Affected:	No
Required Setback:	12 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The subject site comprises three allotments identified as Lots 103, 104 and 105 in DP 263569 and currently known as 62A, 64 and 64A Killeaton Street, St Ives. The properties are all battle-axe allotments having frontage via an access handle to Killeaton Street. Reciprocal rights-of carriageway exist over the subject access handles together with a number of adjoining access handles, with the result being a private road which services the subject site and adjoining properties Nos 60A, 62, 66, 68 and 68A Killeaton Street.

The subject site is located at the southern end of a private road and has a southern frontage to Pymble Golf Course. Of the three allotments, No. 62A is currently vacant, with Nos 64 and 64A supporting single storey brick and tile dwelling houses, both of which are approximately 20 years old. The existing dwellings are set on largely level allotments of land and have been designed to take advantage of views over the adjoining golf course. The properties are both well landscaped, with manicured lawns and well kept gardens.

The site supports a number of established trees, many of which are proposed to be retained as part of this proposal.

All three properties benefit by an operational, registered, drainage easement which is located adjacent to all of the site's southern boundaries and the western boundary of Lot 103. The drainage easement then directs all collected stormwater to the street drainage system within Killeaton Street.

## Surrounding development:

With the exception of the golf course, the area is zoned Residential 2(c) under the Ku-ring-gai Planning Scheme Ordinance.

The subject site is located within reasonable proximity of the St Ives Village shopping centre. Although the distance of 600m exceeds the distance of 400m set out within the SEPP (Seniors Living) 2004, the shopping centre is considered to be in easy walking distance. There is a wide range of community and health facilities associated with the shopping centre. There is a local bus service and an upgrading of the pedestrian network has been approved as part of the adjoining development at 66-68 Killeaton Street (DA0022/03).

Surrounding development comprises a variety of large dwelling houses of mixed architectural styles and ages, together with a number of constructed or proposed medium density developments under the former SEPP No. 5. These developments all have large units within substantial buildings, with extensive orientation and views over the Pymble Golf Course.

#### ltem 2

The location of these existing and proposed SEPP No. 5 developments is to both the east and southeast of the site and includes a recently approved development at 68 Killeaton Street, comprising two large buildings (of which the rear building contains 3 levels). Recent developments that have been approved in the area include a SEPP5 development at 68 Killeaton Street (immediately adjoining the site) and a Dual Occupancy at 52 Killeaton Street.

The remaining properties, which adjoin the golf course, support very large modern dwelling houses oriented towards the golf course. The other predominant feature of these properties and the SEPP No 5 developments is a number of mature trees set within large gardens.

# THE PROPOSAL

The proposal is to demolish the existing two dwellings and construct a strata-titled housing development, containing 10 units, pursuant to the provisions of SEPP (Seniors Living) 2004. The dwellings are proposed to be contained within two separate buildings – Building 1 (the eastern building) and Building 2 (the western building). A gazebo, barbeque area, swimming pool and clothes drying enclosure are also proposed.

Buildings 1 and 2 are of identical appearance and are three storeys high, with a basement parking level. They each contain five units, with two units at ground and first floor and one unit at roof level contained within a mansard roof. The buildings are set at a north-south orientation, with all units benefiting from north and south aspects. Details of these units are as follows:

**Unit 1** (Building 1 and 2) is south-facing, containing three bedrooms, dining/living area, kitchen, family room, laundry, bathroom and ensuite serving Bedroom 1. A large, south-facing terrace is oriented towards Pymble Golf Course. A terrace also wraps around the unit, providing extensive outside space to the north outside the family room. This unit is adaptable.

**Unit 2** (Building 1 and 2) is a south-facing, containing three bedrooms, dining/living area, kitchen, family room, laundry, bathroom and ensuite serving Bedroom 1. A large south-facing terrace is oriented towards Pymble Golf Course. A terrace also wraps around the unit, providing extensive outside space to the north outside the family room. This unit is adaptable.

**Unit 3** - (Building 1 and 2) is south-facing, containing three bedrooms, dining/living area, kitchen, family room, laundry, bathroom and ensuite serving Bedroom 1. Terraces are provided to the south and north off living areas.

**Unit 4** - (Building 1 and 2) is south-facing, containing three bedrooms, dining/living area, kitchen, family room, laundry, bathroom and ensuite serving bedroom 1. Terraces are provided to the south and north off living areas.

**Unit 5** – (Building 1 and 2) contains living/dining area, kitchen, meals/family room, three bedrooms (bedroom 1 with ensuite and robe), laundry and bathroom. This unit has balconies to the north and south from living areas and is contained within the mansard roof of the development.

Access to the site is gained by one driveway, curving into the middle of the site, and leading to a basement area which extends under both Buildings 1 and 2. The basement provides 26 private car

#### ltem 2

spaces and four visitor car spaces. An area has been provided for the storage of waste and recyclables and this is accessible by Council's waste collection vehicles.

To the north of Building 2, a communal area is provided, including swimming pool, toilet, gazebo, barbecue area and drying area. Mailboxes are provided at the entrance of the site.

A communal area has also been provided to the front of Units 1 and 2 in Building 2, immediately adjacent to the golf course. A path leading from the front of Building 1 will provide access to this communal area.

## Amended plans dated 13 August 2004

Amended plans were submitted following a meeting between Council staff and the applicant. The amendments include the following design alterations:

## Site Plan DA01 Issue B

- a. Pergolas added to Units 1.05 and 2.05
- b. Change in the floor space calculations from 2184 m<sup>2</sup> to 2194m<sup>2</sup> (this was an error noted on the plan)
- c. Change in the communal open space calculations from  $930 \text{ m}^2$  to  $1196 \text{ m}^2$  (to accommodate a new area of communal open space adjoining the Pymble Golf Course).

#### Ground Floor Plan DA03 Issue C

- a. Provision of communal open space area to the south of Units 2.01 and 2.02.
- b. Provision of private garden space for Unit 1.05 to the north of Unit 1.02.
- c. Provision of a paved area for post boxes to the front of the development.
- d. Provision of retention tank grates near the entry to Building 1.
- e. Provide detention and retention tank grates and landscaping near northern terrace Unit 2.02 and reduce area of terrace accordingly.
- f. Provide gate from private open space Unit 1.01 to golf course.
- g. Provide gates from private open spaces Units 1.02, 2.01 and 2.02 to communal open space.

## Second Floor Plan DA05 Issue B

- a. Pergolas added to Units 1.05 and 2.05.
- b. Laundry layout mirror reversed Units 1.05 and 2.05.
- c. Laundry window shifted slightly Units 1.05 and 2.05.
- d. Bedroom 1 doorway location moved Units 1.05 and 2.05.
- e. Cavity brick wall of family room moved 0.5m into the roof void creating additional 3.37m<sup>2</sup> floor space within Units 1.05 and 2.05.
- f. Southern wall of robe room moved 0.5m into roof void creating additional 1.8m<sup>2</sup> floor space to Units 1.05 and 2.05.
- g. Floor space notation of Units 1.05 and 2.05 changed from  $242m^2$  to  $247m^2$ .

## Roof Plan DA06 Issue B

ltem 2

## a. Pergolas added to Units 1.05 and 2.05.

#### Elevations DA07 Issue B

- a. Pergolas added to Units 1.05 and 2.05.
- b. Maintainence WC added to North and West Elevations.

#### Sections DA08 Issue B

a. Pergolas added to Units 1.05 and 2.05

## Amended plans dated 15 September 2004

In response to issues raised by Council's Development Engineers, the Basement plan DA02 Issue D was amended as follows:

- a. Ramp accessing the basement now curved.
- b. Stack parking spaces increased to 6m in length.
- c. Additional parking spaces have been increased to 6m in length.
- d. Storage spaces have been provided for Units 1.01, 1.05, 2.01 and 2.05.
- e. Proposed routes of stormwater drainage have been shown on the plan.

The above amendments were not considered to have a greater impact upon neighbouring property owners. Accordingly, the amendments were not required to be notified.

# **CONSULTATION - COMMUNITY**

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

- 1. Mr. P.J. Harding, General Manager, Pymble Golf Club, 4 Cowan Avenue, St Ives 2075.
- 2. Mr Uwe Moeller, 56-58 Killeaton Street, St Ives 2075.

The submissions raised the following issues:

We would have very strong objection to any trees being cut down just to provide a better view of the golf course; and All mature trees on the site must be retained and construction should be set back from large trees.

The application proposes the following removal, retention and replenishment in proximity to No.58 Killeaton Street:

TREE REMOVAL			
Tree Ref.	Туре	Height	Location

#### Item 2

#### 2 / 7 62A-64A Killeaton Street 458/04 20 October 2004

			and No.58 Killeaton
Tree Ref. HyF	Type4 x Native Frangipani	Height 7m (evergreen)	Location Between Building 2
	LENISHMENT	TT	T
TDEF DEP			Killeaton
T29	<i>Araucaria heterophylla</i> (Norfolk Island Pine)	Trunk Diameter 600mm	Western boundary adjoining No.58
T28	<i>Liquidambar styraciflua</i> (Liquidambar)	Trunk Diameter 600mm	Western boundary adjoining No.58 Killeaton
T27	<i>Liquidambar styraciflua</i> (Liquidambar)	Trunk Diameter 750mm	Western boundary adjoining No.58 Killeaton
T26	Nyssa sylvatica (Tulepo)	Trunk Diameter 400mm	Southern boundary in front of Building 2
T25	<i>Cedrus deodara</i> (Himalayan Cedar)	Trunk Diameter 400mm	Southern boundary in front of Building 2
T18	Nyssa sylvatica (Tulepo)	Trunk Diameter 400mm	front of Building 2 Southern boundary in front of Building 2
T17	Ulmus glabra (Golden Wych elm)	Trunk Diameter 400mm	Southern boundary in
T15	Ulmus glabra (Golden Wych elm)	Trunk Diameter 500mm	Southern boundary between Buildings 1 and 2.
T14	<i>Taxodium distichum</i> (Swamp Cypress)	Trunk Diameter 250mm	Southern boundary between Buildings 1 and 2.
T11	Prunus (Ornamental Fruit Tree)	4-6m in height	Southern boundary in front of Building 1
T10	Prunus (Ornamental Fruit Tree)	4-6m in height	Southern boundary in front of Building 1
Tree Ref.	Type	Size	Location
T24 <b>TREE RET</b>	Ulmus minor 'Variegata' (Variegated Smooth-leaf elm)	300mm	To the South of the proposed Building 2
T23	<i>Taxodium distichum</i> (Swamp Cypress)	750mm	Between proposed Building 2 and No. 58 Killeaton Street
T22	<i>Taxodium distichum</i> (Swamp Cypress)	400mm	Between proposed Building 2 and No. 58 Killeaton Street
T21	<i>Taxodium distichum</i> (Swamp Cypress)	250mm	Between proposed Building 2 and No. 58 Killeaton Street
T20	Bauhinia sp (Butterfly tree)	250mm	On proposed footprint of Unit 2.01.

Item 2	
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			Street
MA	1 x White Cedar	6-8m (deciduous)	South-western corner
			of Building 2
JM	1 x Jacaranda	8-10m (deciduous)	North-western corner
			of Building 2

The existing trees to be retained will continue to obscure views of the golf course and in turn will soften the building when viewed from the golf course. Conditions of consent will ensure that the trees to remain will be adequately protected and that the site shall support a minimum of 24 trees to attain 13 metres in height (*refer to Conditions 73-78*).

## It may be necessary to drain the stormwater from the property to the Pymble Golf Club. If that is the case then the Pymble Golf Club are prepared to consider an easement to drain the stormwater to the golf course provided that terms and conditions are agreed by the applicant; and All stormwater must be retained on the subject site and then re-directed to Killeaton Street with NO run permitted to our adjoining property or the golf course.

The proposal does not require an easement from Pymble Golf Club to drain stormwater because the site has the benefit of an inter-allotment drainage easement, which runs from 64A through 64, 62A, 62, 60A to drain in to Killeaton Street.

# Sewerage connection on 62A Killeaton Street must be inspected as I am sure this was carried out without the approval of Sydney Water.

Sydney water will be required to assess and check that all sewer connections are in accordance to their particular requirements (*refer to Condition 110*).

## I must request that the balconies on the first floor on the western wall of Building No. 2 be removed and all windows to be raised to a minimum of 1.75 metres from floor level to avoid having neighbours looking into our property. This is to protect our privacy both inside the house and also the recreational areas on the northern and southern part of our property.

First floor balconies are located 6.5 metres from the boundary, 9 metres from the building at 58 Killeaton Street and at a greater distance from the southern and northern recreation spaces of 58 Killeaton Street. These distances satisfy AMCORD requirements. One balcony is provided to the dining room, which is oriented towards 58 Killeaton, however, a planter box is also provided to ensure no effect to the privacy of the adjoining occupier. No private open space is located within the side boundary which would be adversely impacted upon.

# **CONSULTATION - WITHIN COUNCIL**

# Heritage/Urban Design

Council's Heritage/Urban Design Officer has commented on the proposal as follows:

"The site does not have a streetscape presence and hence I have no objections from an Urban Design point of view.

ltem 2

No apparent heritage issues"

## Landscaping

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

"An inspection of the property was conducted on 13th July 2004.

#### Stormwater Drainage

Conditions will be imposed to preserve the existing trees to be retained along the southern boundary (refer to Condition Nos 77 and 78).

## Landscaped Area and Deep Soil Zones

The proposed development complies with clauses 81(c) & (d) of the SEPP in relation to minimum landscaped area and deep soil zones.

## Landscape Proposal

The landscape plan by Narelle Sonter of Botanica, Drawing No. LCP.01/A, Dated April 2004 is conceptual only. A detailed plan will be required indicating the following amendments;

The landscape plan shall comply with the approved drainage details.

In accordance with Council's Tree Replenishment Policy at least 10 trees that attain a height of 13 metres are required.

## Proposed Tree Removal

No objection is raised to the removal of the following trees;

- Taxodium distichum (Swamp Cypress) 9 metres in fair condition.
- Taxodium distichum (Swamp Cypress) 13 metres in fair condition.
- Taxodium distichum (Swamp Cypress) 12 metres high, with a healthy canopy. Inappropriate pruning has resulted in a multi branched regrowth.
- Ulmus sp. (Elm) 12 metres high in good condition.
- Bauhinia sp. (Butterfly Bush) 8 metres high in fair condition.
- Cedrus deodara (Himalayan Cedar) 14 metres high in good condition. Crown lifted to a height of 4 metres.
- 2 x Prunus sp. (Prunus) 4 to 6 metres high in good condition.
- Pittosporum eugenioides 'Variegata' (Variegated Tarata) 8 metres high in good condition.
- Ficus microcarpa 'Variegata' (Variegated Hills Weeping Fig) 9 metres high in good condition.
- Castanospermum australe (Moreton Bay Chestnut) 12 metres high in fair condition.

A total of 14 trees that attain a height of 13 metres are to be retained on the site. A minimum of 10 additional trees will be planted together with extensive shrub planting.

Item 2

The Landscape Section will support the application subject to conditions.

Condition Nos 60-64, 73-78 and 90-92 have therefore been attached.

#### Engineering

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

This application is recommended for approval subject to engineering conditions.

Works are required to provide access to the bus stop, for compliance with the access provisions of the SEPP (Seniors Living).

Vehicle Access and Accommodation comments

Dimensions of parking spaces comply with the requirements of the Seniors Living SEPP in that minimum private carspace dimensions meet or exceed 6m x 3.2m.

Aisle and driveway widths comply with Australian Standard 2890.1 2004 – "Off street Car Parking".

Driveway grades generally comply with Australian Standard 2890.1 2004 – "Off street Car Parking". The driveway slope along the internal radius at 21% marginally exceeds the maximum of 20%, however this non-compliance is not considered excessive.

*Extensions of 1 metre as required by Section 2.4.2 of AS2890.1-2004 have now been provided for the blind aisles.* 

Headroom complies with the requirements of the SEPP (Seniors Living) in that minimum headroom of 2.5m has been provided, with 2.3 metres at garage entrances and 2.5 metres available for the garbage collection vehicle. The only exception to this is space 28 which has an average headroom of 2.5 metres with a minimum of 2.3 metres. This space would be a tandem space, one of three provided in the garage for Unit 2.01, and given the generous number of spaces provided (see next paragraph), and that this space is more likely to be used for storage than parking, it does not need to be included in the total number of spaces.

The number of private car spaces at 26 (not including space 28) exceeds the minimum requirement of 15 spaces. Four visitor spaces are provided. This is more than the 2 spaces required under the RTA Guide to Traffic Generating Developments, but is justified for the subject site given the narrow right of carriageway accessed from a sub-arterial road. Adequate signposting and marking will be required for the visitor spaces.

The Roads & Traffic Authority did not object to the development or recommend any conditions, as the access arrangements from Killeaton Street will not change, and the traffic generation was considered to have minimal impact on the road network.

With regard to traffic volumes in the right of way, a calculation using the rate given in the RTA Guide to Traffic Generating Developments for aged care ie 0.1-0.2 vehicular movements per dwelling, gives an estimated traffic generation for the 10 dwellings of 20 daily trips, with 2.0 evening peak hour vehicle trips. The existing three dwelling entitlement (even though Lot 103 remains vacant), would generate 2.5 vehicle trips in peak hour (at 0.85 movements per dwelling). Therefore the development would generate an apparent net decrease in traffic using the right of way.

Under DCP40, internal waste collection is required since the number of units exceeds six. A SEPP 1 objection has been lodged with the application. The applicant has provided a truck turning bay close to the driveway entrance which is of sufficient extent to permit Council's waste collection truck to ingress and egress the site in a forward direction.

It is concluded that the proposed development has satisfactory traffic arrangements subject to the recommended conditions.

## Site drainage comments

It appears that the property benefits from a drainage easement through Lots 102 and 101, however it is not known if there is a pipe within the easement. No evidence could be found of any pits during the site inspection. It will be possible to construct or upgrade the interallotment drainage if required; to drain the site during and after construction; these works will have to be done before other works are done on the site. There appear to be trees in the easement (possibly the reason for the irregular shape), however, pipeline construction can be done by thrust boring if necessary.

No Schedule for Maintaining Water Quality appears to have been submitted, as required by Appendix 13 of DCP 47. The development is required to incorporate permanent stormwater quality control measures which will provide compliance with Section 8.3.1. This has been included in the recommended conditions.

Condition Nos 47-59, 79-86, 94-97, 98-104 and 106-115 have therefore been recommended.

## STATUTORY PROVISIONS

# State Environmental Planning Policy (Seniors Living) 2004

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

#### ltem 2

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

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

Clause	Requirement	Compliance
Clause 25(1)(2)	Access to shops, banks, other retail and commercial services, community services and the practice of a general medical practitioner.	<b>YES.</b> The proposal is in walking distance of St Ives Shopping Centre. Detailed evidence is provided in the Statement of Environmental Effects and the Access Report. Upgrade work will required to the pedestrian walkway unless already carried out ( <i>refer to</i>
		Condition No. 84).

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

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

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

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

## Neighbourhood amenity and streetscape

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

- 1. The buildings are set within a battleaxe site, and will not present to the streetscape. There will therefore be no impact upon the streetscape of Killeaton Street.
- 2. The proposal will present as two individual buildings, with views available between the two individual buildings to and from the golf course.

- 3. The proposed development provides for ample setbacks to all boundaries and provides a built upon area of 53%. The development maintains reasonable distances between neighbouring properties and does not appear as over-developed.
- 4. The height of the buildings will be consistent with those adjoining the subject site. Building 2 (the western building) has a first floor ceiling height of RL165.7. This is reasonably consistent with the ceiling height of the neighbouring property of 58 Killeaton at RL164.90. The second level sits above this (to a total ridge height of RL172.94), however is set well back from the side boundary and is integrated into the roof.

To the other side of the property is No. 68 Killeaton Street. This neighbouring dwelling has recently been subject to a court-approved SEPP5 application. The proposed building to the immediate east of Building 1 will have a ridge height of RL173.664. This is also consistent with the proposed buildings for the subject site and with the topography of the land, which slopes to the west.

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

## Visual and acoustic privacy

The design of the proposed development has considered the visual and acoustic privacy of neighbours and intended residents through the following:

- 1. The site is located down a battle-axe driveway and will therefore not be subject to vehicular traffic noise from Killeaton Street.
- 2. A distance of 6.5 metres (wall to wall) has been provided between 58 Killeaton Street and the proposed western Building 2. A distance of 6.5 metres has also been provided to the eastern side. This, in conjunction with landscaping proposed, is considered ample setback to ensure adequate acoustic privacy.
- 3. There are a number of windows on the western elevation of Building 2 which are oriented towards the side elevation of 58 Killeaton. However, all of the windows in the side elevation of 58 Killeaton are minor in nature, with high sill levels, some of which are obscured. Additionally, the two buildings are of the same depth therefore none of these windows nor the balconies project beyond the rear or front of the building.
- 4. To the east of the subject site is the recently approved SEPP5 development for 66-68 Killeaton Street (DA0022/03). This has a number of windows and balconies which are projected towards the subject site, however, sufficient distances, screen planting and planters can be provided to ensure no effect upon visual privacy. The two sites have been designed by the same architects and this has resulted in buildings which relate well to each other.

#### Item 2

- 5. The living areas and private open space areas are located and orientated towards the golf course and towards the front (north) of the site. There are no points (internal or external to the site) where living areas front on to one another.
- 6. The proposed development has its vehicular entry/exit point located in the middle of the site between the two buildings. Sufficient distances have been provided so as to allow for landscaping between the dwellings and driveway. The access point will therefore not adversely impact upon the acoustic or visual privacy of the neighbours or future residents of the development.

## Solar access and design for climate

The proposed development will ensure at least 3 hours of daylight to the main living areas and private open space of the adjoining western property at 58 Killeaton Street. The main outdoor living areas of 58 Killeaton are to the north-west of the dwelling (including a swimming pool and tennis court) which is well removed from the proposed development.

The future residents of the proposed development will receive adequate daylight to main living and private open space areas due to the north-south orientation of the units.

#### Stormwater

The proposal will control and minimise disturbance and impacts of stormwater. The site has the benefit of a drainage easement to Killeaton Street.

## **Crime prevention**

It cannot be ascertained whether the units provide for peep holes or transparent panels alongside the unit entry doors. This is required to provide for surveillance and allow for residents to see who approaches their dwellings without the need to open the front door. This can be required by condition (*refer to Condition No.46*).

#### Accessibility

An access assessment report has been provided with the application. The accessibility report indicates that the proposed development satisfies all policy objectives of SEPP for Seniors Living Policy and the technical requirements of AS1428 and AS4299 for adaptable housing. A condition of consent will ensure that the design standards of the SEPP (Seniors Living) are satisfied (*refer to Condition No.122(g)*).

#### Waste management

A central waste storage area, accessible by Council's collection vehicles, has been provided within the basement level. This area is accessible by all residents, and can be accessed by either stair or lift. The waste management area includes space for the recycling of materials as required by Council's Development Control Plan 40 (*refer to Condition Nos 58 and 98*).

A State Environmental Planning Policy 1 (SEPP1) objection has been submitted with respect to the location of the garbage storage area, as the siting of the garbage storage area is in conflict with SEPP (Seniors Living) which requires an outside storage area. This is addressed in depth below.

## **Part 4 Development Standards**

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

Clause	Standard	Proposal	Compliance
38(2) -	Minimum 1,000m <sup>2</sup>	$4,420m^2$	YES
Site size			
38(3) -	20 metres at the	47 metres and 66	YES
Site Frontage	building line	metres at the building	
		line	
29(1)	8 metres or less	Duilding 1 80 matros	YES
38(4) - Height in zones	8 metres of less	Building 1 - 8.0 metres Building 2 - 8.0 metres	YES
where residential		Building 2 - 8.0 metres	125
flat buildings are			
not permitted			
38(4)(b) -	Not more than 2 storeys	3 storeys	NO
Height in zones	in height adjacent to a	5 5000 95	A SEPP No. 1
where residential	boundary of the site.		objection has been
flat buildings are	boundary of the site.		lodged in support of
not permitted			this departure
38(4)(c) -	A building located in	Complies	YES
Height in zones	the rear 25% area of the	r	
where residential	site must not exceed 1		
flat building are	storey in height.		
not permitted			

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

Clause	Standard	Proposal	Compliance
52(1) -	100% of dwellings to	All dwellings have	YES
Wheelchair	have wheelchair access	access to an adjoining	
access	to public road or	public road.	
	internal road if site		
	gradient is less than		
	1:10.		
52(4) -	Wheelchair access to be	Accessibility report indicates	YES –BY
Common areas	available to all common	garage, pathways, garbage	CONDITION
	areas and facilities.	storage area, visitor parking area and letter boxes are	
		accessible. Communal Open	

#### Item 2

Clause	Standard	Proposal	Compliance
		Space to the rear has not been addressed as this was created following revisions. Condition 66 ensures that the communal open space will be accessible and shall remain in communal use.	
53 - Identification	If the site includes more than one street, street signage incorporating house numbers must be provided at each intersection.	The site only fronts one street.	NOT APPLICABLE
54 - Security	Pathway lighting must be designed and located to avoid glare.	Low level pathway, foyer, and unit entrance security lighting is proposed ( <i>refer</i> <i>Condition No. 122(g)</i> ).	YES
55 - Letterboxes	Must be lockable and situated on a hard standing area and be wheelchair accessible.	A paved accessible letterbox area is proposed adjacent to the entry path ( <i>refer</i> <i>Condition No. 122(g)</i> ).	YES
56 - Private car accommodation	<ul> <li>Car parking spaces must have:</li> <li>be not less than 6m x 3.2m or being capable of adapted.</li> </ul>	Car parking spaces have: • area 6.4m x 6.8m	YES
	• internal clearance of 2.5 metres	• internal clearance of 2.5 metres	YES
	• height at entry 2.3 metres	• A height at entry of 2.3m	YES
	• any garage must have a power- operated roller door, or a power point to allow the above at a later date	<ul> <li>basement level has its own power- operated entry roller door</li> </ul>	YES
57 - Accessible entry	<ul> <li>Every entry must:</li> <li>not have a slope that exceeds 1:40</li> <li>comply with clauses 4.3.1 &amp; 4.3.2 of AS</li> </ul>	Proposal will be constructed so as to comply with requirements as stated in the Accessibility	YES

Clause	Standard	Proposal	Compliance
	<ul> <li>4299</li> <li>have entry hardware which complies with AS 1428</li> </ul>	Report submitted with the application.	
58 - Exterior doors	All external doors to a dwelling must be keyed alike.	All external doors to each unit will be keyed alike. Can be ensured through conditions of consent ( <i>refer</i> <i>Condition No. 122(g)</i> ).	YES
59 - Interior general	<ul> <li>internal doors must have a clearance of 800mm</li> <li>internal corridors must have a width of</li> </ul>	<ul> <li>Internal doors will have a clearance of 800mm.</li> <li>Internal windows will have a minimum</li> </ul>	YES YES
	<ul> <li>the width at internal door approaches must be at least 1200mm</li> </ul>	<ul> <li>with have a minimum width of 100mm.</li> <li>Internal door approaches minimum width of 1200mm (<i>refer Condition No. 122(g)</i>).</li> </ul>	YES
60 - Living room & dining room	<ul> <li>A living room in a self contained dwelling must have:</li> <li>a circulation space of at least 2250mm in diameter and as set out in clause 4.7 of AS 4299</li> </ul>	The proposal complies as stated in the Accessibility Report ( <i>refer Condition No.</i> 122(g)).	YES
	<ul> <li>a telephone adjacent to a general power outlet</li> <li>a potential illumination level of 300 lux</li> </ul>		
61 - Kitchen	<ul> <li>A kitchen in a self contained dwelling must have:</li> <li>a width of at least 2.7 metres and a clear space between benches of 1450mm</li> </ul>	Proposal complies and can be ensured through condition ( <i>refer</i> <i>Condition No. 122(g)</i> ).	YES
	<ul> <li>a width at door approaches of 1200mm</li> </ul>		

## Item 2

Clause	Standard	Proposal	Compliance
	• benches that include		
	one work surface		
	that is at least		
	800mm in length		
	and the height of		
	which can be		
	adjusted from		
	750mm to 850mm		
	• a tap set that is		
	located within		
	300mm of the front		
	of the sink and comprises of a lever		
	1		
	<ul><li>type mixing tap</li><li>a thermostatic</li></ul>		
	• a thermostatic mixing valve for the		
	hot water outlet		
	<ul> <li>a cook top with</li> </ul>		
	• a cook top with either front or side		
	controls which have		
	a raised cross bar.		
	The stove is also to		
	be provided with an		
	isolating switch		
	• a work surface		
	adjacent to the cook		
	top which is at the		
	same height and at		
	least 800mm in		
	length		
	• an oven that is		
	located adjacent to a		
	work surface the		
	height of which can		
	be adjusted		
	• "D" pull cupboard handles		
	• General power outlets at least one is		
	a double outlet		
	within 300mm of		
	the front of a work		
	surface and one		
	which is for a		
	refrigerator which		
	can be readily		

### Item 2

Clause	Standard	Proposal	Compliance
	accessed once		
	installed		
62 - Main bedroom	<ul> <li>At least one bedroom within the dwelling must have:</li> <li>an area sufficient to accommodate a wardrobe and a queen sized bed, with an area at least 1200mm wide at the foot of the bed</li> <li>2 double general power outlets adjacent to the head of the bed</li> <li>1 general power outlet on the wall opposite the bed</li> <li>a telephone outlet and power outlet next to the bed on the side closest to the door</li> <li>a potential illumination of 300 lux</li> </ul>	Proposal complies as stated in the Accessibility Report ( <i>refer Condition No.</i> 122(g)).	YES
63 - Bathroom	<ul> <li>A bathroom must have:</li> <li>an area that complies with AS 1428</li> <li>a slip resistant floor</li> <li>a shower recess at least 1160mm x 1100mm or that complies with AS 1428 or clause 4.4.4 and figures 4.6 and 4.7 of AS4299. the recess shall incorporate the following:</li> <li>no hob</li> <li>waterproofing</li> <li>floor waste</li> </ul>	Proposal complies as stated in the Accessibility Report ( <i>refer Condition No.</i> 122(g)).	YES

#### Item 2

Clause	Standard	Proposal	Compliance
Clause 64 - Toilet	Standardothe ability to provide a grab railosuitable tapsocan accommodate a hand held shower on a slider railocan accommodate a folding seatocan accommodate 	Proposal Proposal complies as stated in the Accessibility Report ( <i>refer Condition No.</i> 122(g)).	Compliance
65 -	<ul> <li>has a slip resistant floor surface</li> <li>the WC pan is located from fixed walls in accordance with AS1428</li> <li>that can accommodate a grab rail in accordance with AS4299 &amp; AS1428</li> <li>A kitchen, main</li> </ul>	Proposal complies. All	YES
65 - Access to kitchen, main bedroom,	A kitchen, main bedroom, bathroom and toilet must be provided	units are of single level cross-over design ( <i>refer</i>	120

Clause	Standard	Proposal	Compliance
bathroom & toilet	on the ground floor of a multi level dwelling.	Condition No. 122(g)).	
66 - Lifts in multi storey buildings	• Lift access provided to all dwellings above the ground level of the building.	Proposal complies. Lift access is provided to all levels( <i>refer Condition</i> <i>No. 122(g)</i> ).	YES
67 - Laundry	<ul> <li>A self contained dwelling must have a laundry which:</li> <li>has provision for a washing machine</li> <li>has the provision for the installation of a clothes dryer</li> <li>has a clear space in front of appliances of 1300mm</li> <li>has a slip resistant floor surface</li> <li>has an accessible path of travel to any external clothes line.</li> </ul>	Proposal complies as stated in the Accessibility Report ( <i>refer Condition No.</i> 122(g)).	YES
68 - Storage	<ul> <li>A self-contained dwelling must be provided with a linen cupboard:</li> <li>that is at least 600mm wide</li> <li>has adjustable shelving</li> </ul>	Proposal complies as stated in the Accessibility Report ( <i>refer Condition No.</i> 122(g)).	YES
69 - Doors	<ul> <li>Door hardware</li> <li>provided for opening</li> <li>doors must be:</li> <li>able to be operated</li> <li>with one hand</li> <li>located between</li> <li>900mm and</li> <li>1100mm above floor</li> <li>level</li> </ul>	Proposal complies as stated in the Accessibility Report ( <i>refer Condition No.</i> 122(g)).	YES
70 - Surface finishes	Balconies and external paved areas must have slip-resistant surfaces.	Proposal complies as stated in the Accessibility Report ( <i>refer Condition No.</i> 122(g)).	YES
71 -	• switches must be	Proposal complies as	YES

#### ltem 2

Clause	Standard	Proposal	Compliance
Ancillary items	<ul> <li>located between</li> <li>900mm and</li> <li>1100mm above floor</li> <li>level</li> <li>general purpose</li> <li>outlets must be</li> <li>located at least</li> <li>600mm above floor</li> <li>level</li> </ul>	stated in the Accessibility Report ( <i>refer Condition No.</i> 122(g)).	
72 - Garbage	An outside garbage storage area must be provided in an accessible location.	A garbage storage facility is provided within the basement garage level.	NO A SEPP No. 1 objection has been lodged in support of this departure

## SEPP1 objections

In relation to Clause 38(4)(b) and Clause 72, the applicant has lodged two SEPP 1 objections to the strict imposition of the development standards.

Clause 38(4)(b) requires that, in an area where residential flat buildings are not permitted, no more than 2 storeys in height adjacent to a boundary of the site are permissable. The SEPP1 objection in relation to this clause is as follows:

This objection is made pursuant to the provisions of Clause 6 of SEPP No. 1. In this regard it is requested that Council support a variation to the development standard as provided by Clause 38(4)(b) of the Seniors Living SEPP.

## 1. Is the control to be varied a development standard?

Clause 38(4)(b) is contained at Part 4 of Chapter 3 of the SEPP under the heading of 'Development Standards to be Complied With' and provides that a consent authority must not consent to a development application unless it complies with the standards as specified in this Clause.

Clause 38(4)(b) provides:

A building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this policy applies) must be not more than 2 storeys in height.

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

*The objective of the particular clause is identified within the SEPP as being:* 

'To avoid an abrupt change in the scale of development in the streetscape'.

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

The aim of SEPP No.1 is to:

Item 2

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 objectives 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 proposal is consistent with the aim of SEPP No.1.

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

- a) The proposal site is a battleaxe shaped site accessed by a private roadway about 90m in length. The private roadway is off and at 90° to Killeaton Street. There is a change in level of 5.6m between Killeaton Street at RL157.400 and the builtupon area of the proposal site at RL163.000. There are a number of large trees on or near the driveway and the proposal site and there are other residential dwellings adjacent to the roadway at 60A, 62, 66-68 and 68A Killeaton Street that obscure any view of the proposal from Killeaton Street. Given the separation distance from Killeaton Street and the obscured view there is no visual abrupt change in the scale of development in the Killeaton Street streetscape.
- b) The proposal site is located adjacent to an approved 3 storey SEPP 5 development at 68 Killeaton Street, St Ives.
- c) The proposal site is near, 25 metres to the east, approved 3 storey SEPP 5 development at 58 Cowan Road, St Ives that is now under construction.
- *d)* The proposal complies with the 8m height limit.
- *e) The 3 storey element of each proposed building will be wholly contained within a defined roof form.*

- f) Balconies at the  $3^{rd}$  storey will be a 14m distance from neighbouring properties and a 20m distance from the other building on the proposal site.
- g) Bedroom and laundry windows at the  $3^{rd}$  storey will be 10.5m from neighbouring buildings.
- h) Dining room, powder and kitchen windows at the  $3^{rd}$  storey will be 16m from the other building on the proposal site.
- *i)* Amcord states that at distances of 9m or more there are no privacy impacts.
- *j)* The view of the 3<sup>rd</sup> storeys from the golf course will be partly obscured by 12 existing trees to be retained and will be of 2 compact buildings separated by 13 metres of landscaping, buildings that follow the fall of the site and are 2.7m different in height to each other and have a 12.5m (3<sup>rd</sup> storey) difference in set back from the golf course.
- *k)* The wider view of the proposal site and its neighbours from the golf course will be that of a mixture of 2 and 3 storey buildings of varying shapes and sizes consistent with the changing nature of development adjacent to the golf course.
- *l)* Providing a 3<sup>rd</sup> storey within an 8m height limit enables a more compact building form that frees up land for landscaping and open space uses.
- 5. Conclusion

It is submitted that it would be both unreasonable and unnecessary for strict compliance with this standard to be required in this case for the abovementioned reasons. Therefore it is respectfully requested that the Council support the variation of the development standard as proposed.

## Consideration

As noted above, the proposed development provides for a third storey within the roof form. Visually, this will not be dominant or out of keeping with the character of the area. The roof height is less than 8.0 metres and is also less than the height of the approved building at 66-68 Killeaton Street.

The site also allows for adequate landscaping and generous side setbacks, with no impact upon the visual and acoustic privacy of the neighbouring properties.

Due to the topography of the land the site will not be able to be viewed from Killeaton Street. Furthermore, the height and design of the buildings respect the east-west slope of the land, with the building adhering to the heights of buildings to either side of the subject site.

For the above reasons, it is considered that compliance with Clause 38(4)(b) is unreasonable and unnecessary in this instance and the SEPP1 objection is well founded.

Clause 72 requires that an outside and accessible storage area is provided. The SEPP1 objection in relation to this clause is as follows:

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

## 1. Is the control to be varied a development standard?

Clause 72 of the SEPP provides that a consent authority must not consent to a development application unless it complies with the standards as specified in this Clause.

Clause 72 provides:

"An outside garbage storage area must be provided in an accessible location."

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

- The objectives of the garbage standard in Clause 72 of the Seniors Living SEPP are not expressed but are assumed to be:
- a. To ensure good design and a design that is compatible with residential development in the locality;
- b. To ensure that the garbage storage area is located outside the residential area of the development in a convenient and accessible location.
- c. To avoid multiple garbage collection points in highly visible areas.
- *d. To protect the health and amenity of occupants of the development.*
- e. To be located to provide effective collection of waste receptacles.

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

The aim of SEPP No.1 is to:

Provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(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 proposal is consistent with the aim of SEPP No.1.

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

- a) Ku-ring-gai Municipal Council DCP 40 states that residential flat buildings should have a waste storage facility within the development, i.e. the building, that can be accessed by their small garbage trucks.
- b) The proposal provides a communal waste storage room under building 1 on the basement level. The room is large enough to store enough waste and recycling containers for the 10 units and will be equipped with water supply, a floor waste to the sewer and mechanical ventilation to a central building chimney shaft.
- c) Residents in building 1 would take their waste via their lift or stairs to the basement and then walk/wheel to the waste room located 5m from the lift and stairs.
- d) Residents in building 2 would take their waste via their lift or stairs to the basement and then walk/wheel 33m across the basement at gradients of 2%, 4% and 5% to the waste room.
- e) Council's small garbage truck, that requires a clearance of 2.44m, would access the basement via the common driveway and perform a 3 point turn at the intersection of the driveway ramp and the lower circulation aisle. The clearances in the ramp and basement where the truck needs to go are between 2.7m to 4.45m.
- *f) The building owners corporate body would manage the cleaning and maintenance of the waste storage room and containers.*

## 5. Conclusion

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

## Consideration

Whilst there are no objectives underlying this standard in SEPP (Seniors Living) 2004, it is considered that its purpose is to ensure the provision of garbage storage occurs in a manner that

#### Item 2

affords easy access to all residents of the development. The proposed location, as shown on the basement plan, does so and also allows for access without leaving the building, thereby enabling easier access for potentially frail or disabled persons without exposure to the weather.

As such, the SEPP 1 objection is considered to be well founded and is supported as it has demonstrated that strict application of the standard is unreasonable and unnecessary in this instance.

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

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

Clause 81(a) –	Height to be less than	8.0 metres	YES
Building height	8.0 metres	0.0 metres	1 125
Clause 81(b) -	0.50:1	0.49:1 (2194m <sup>2</sup> )	YES
Density & scale	0.50.1	0.19.1 (219 m)	110
Clause 81(c) -	Minimum 30% of the	47% soft landscaping	YES
Landscaped area	site to be landscape area	1770 solt landscaping	110
Landseuped area	site to be fundscupe area		
Clause (d) -	15% site area (663m <sup>2</sup> )	920m <sup>2</sup> adjacent to the golf course	YES
Deep soil zones	with $2/3$ (442m <sup>2</sup> ) being	and at the rear of the site, with a	120
	located at the rear of the	minimum dimension of 3 metres.	YES
	site with a minimum	$100m^2$ also provided adjacent to the western boundary and $370m^2$ to the	
	dimension of 3m.	north is also provided.	
Clause (e) -	Min 70% of dwellings	All units receive a minimum	YES
Solar access	receive minimum 3	of 3 hours due to the north-	
	hours direct sunlight	south orientation of the units.	
	between 9am-3pm in		
	mid-winter.		
Clause (f) -	• Single level or ground	• Greater than the minimum	YES
Private open	floor dwellings =	$15m^{2}$ .	
space for in-fill	$15m^2$ (incl. Area 3m x		
housing	3m accessible from	Unit $1.01 = 121 \text{m}^2$	
	living area)	Unit $1.02 = 110 \text{ m}^2$	
		Unit $2.01 = 159 \text{ m}^2$	
		Unit $2.02 = 107 \text{ m}^2$	
	• All other dwellings =	• Greater than the minimum	YES
	balcony min. $10m^2$	10m <sup>2</sup> required.	
	(not less than 2m in		
	length and accessible	Unit $1.03 = 65 \text{ m}^2$	
	from a living area)	Unit $1.04 = 65 \text{ m}^2_2$	
		Unit $1.05 = 75 \text{ m}^2_2$	
		Unit $2.03 = 65 \text{ m}^2$	

#### Item 2

		Unit 2.04 = 65 m <sup>2</sup> Unit 2.05 = 75 m <sup>2</sup>	
Clause (g) - Visitor parking	No standard where 9 or more dwellings are proposed.	Proposal includes 4 visitor parking spaces	YES
Clause (h) - Parking	15 resident spaces required	20 resident spaces provided.	YES

# State Environmental Planning Policy No 55 - Remediation of Land

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

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

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

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

# Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River

The site is within the catchment of the Hawkesbury River and, as such, is subject to the provisions of this environmental planning instrument. The aim of the SREP is to:

"protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context."

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

The proposed development is considered to meet the general strategies of the SREP, however Clause 6 (4) sets out strategies for water quantity whereby the reuse of water is encouraged where possible. Accordingly, measures should be incorporated in the proposed development to enable the reuse of stormwater. An appropriate condition is recommended (*refer Condition No. 82*).

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

The site is zoned Residential 2(c) under the provisions of Ku-ring-gai Planning Scheme Ordinance and the erection of a residential flat building (as the development is defined pursuant to the KPSO)

#### Item 2

is prohibited within the zone. However, the provisions of SEPP (Seniors Living) 2004 override the controls of KPSO and the proposed SEPP (Seniors Living) 2004 development is permissible pursuant to that SEPP.

Clause 33 requires consideration of the aesthetic appearance of development adjacent to areas of open space and is applicable in this instance given the adjacent golf course.

The design, as it faces the golf course, is suitable in terms of bulk, scale and articulation, most particularly giving consideration to the scale of surrounding development and, as such, the provisions of this clause are satisfied by the proposal.

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

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

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

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

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

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

# POLICY PROVISIONS

# **Development Control Plan 40 - Waste Management**

#### Item 2

The site makes adequate provision of a waste and recycling storage area and provides for adequate access to this storage area by Council's garbage collection vehicles.

# **Development Control Plan 43 - Carparking (DCP 43)**

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

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

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

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

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

*Driveway:* The proposal minimises the visual impact of the driveway by providing a landscaped strip adjacent to it and by curving it slightly into the centre of the site. The driveway will not be visible from Killeaton Street and will only be visible at the access point to the site.

*Facades:* The facades to the development are of appropriate bulk, are well articulated and are in keeping with the character of the area.

*Entry:* The entry to the two buildings are obvious, with pedestrian paths from the entry of the site to the entrance foyers and lifts of the buildings.

Setback: The setbacks have been addressed previously and are considered acceptable.

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

*Fences and walls:* A decorative metal fence to a height of 1.0 metre is proposed along the boundary of the golf course and the eastern boundary. This fence is considered to be a suitable design. Otherwise, thick hedge and screen planting is proposed to supplement the existing vegetation.

*Front gardens:* The proposed front garden (and garden to the rear adjoining the Pymble Golf Course) is suitable, particularly given the retention of existing trees where possible together with additional landscaping, giving an appropriate softening of the appearance of the development.

#### Item 2

*Private open space:* Private open space is level and generously exceeds the minimum dimension criteria. A suitable level of privacy will also be afforded. The private open space is appropriately located in relation to the living areas.

*Common open space:* The application includes communal open space to the front and rear of the site. This includes a swimming pool, terrace area, and drying area to the north of the site, in addition to communal open space. A condition of consent will require that this area is available as communal open space (*refer Condition No. 66*). The communal open space will be accessible to all residents and is overlooked by the dwellings within Building 2.

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

*Car parking:* The parking provision is acceptable and appropriate access is provided to the parking area. The driveway design, as conditioned, minimises the width whilst still allowing for access in an emergency. Four visitor car spaces have been provided.

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

*Privacy:* Privacy is dealt with under the assessment of the development's compliance with SEPP (Seniors Living) 2004 and is acceptable.

Access: The proposal provides a suitable level of accessibility, as detailed above.

*Lighting:* Appropriate lighting is recommended in the Accessibility Report, the recommendations of which are required via a condition of consent (*refer Condition 122(g)*).

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

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

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

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

# Section 94 Plan

The demolition of the existing two (2) houses and creation of a seniors living development comprising 10 units generates a Section 94 Contribution of \$84, 828.10 (*refer Condition 71*).

# ANY MATTERS PRESCRIBED BY THE REGULATIONS

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

## LIKELY IMPACTS

The likely impacts of the development have been assessed throughout this report and are minimal and acceptable.

## SUITABILITY OF THE SITE

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

## ANY SUBMISSIONS

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

## **PUBLIC INTEREST**

The proposed development would be in the public interest.

## ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for consideration.

# CONCLUSION

The proposed development will perform adequately, especially given the following.

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

Accordingly, the proposed development is satisfactory with respect to the relevant heads of consideration prescribed under Section 79C of the Environmental Planning and Assessment Act 1979. The application is therefore recommended for approval, subject to conditions.
ltem 2

# RECOMMENDATION

That the Council, as the consent authority, grant development consent to DA0458/04 for the demolition of the existing structures on site, the construction of a SEPP (Seniors Living) 2004 development comprising 10 units, and strata subdivision of the resultant dwellings, on land at 62A-64A Killeaton Street, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

# **GENERAL CONDITIONS**

1. The development to be in accordance with Development Application No.0458/04 and Development Application plans as follows:

Fortey and Grant Architecture, reference: DA01 Amendment B, Site Plan, dated 12.08.04, received 13.08.04 DA02 Amendment D, Basement Plan, dated 15.09.04, received 15.09.04 DA03 Amendment C, Ground Floor Plan, dated 12.08.04, received 13.08.04 DA04 Amendment A, First Floor Plan, dated 27.04.04, received 06.05.04 DA05 Amendment B, Second Floor Plan, dated 12.08.04, received 13.08.04 DA06 Amendment B, Roof Plan, dated 12.08.04, received 13.08.04 DA07 Amendment B, Elevations, dated 12.08.04, received 13.08.04 DA08 Amendment B, Sections, dated 11.08.04, received 13.08.04

Kneebone and Beretta, reference: 56979-2, Concept Drainage Plan, dated 04.05.04, received 06.05.04.

except as where amended by the following conditions.

- 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 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 drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.
- 5. To ensure compliance with the relevant standards, an effective and approved safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal

Certifying Authority's satisfaction in the location indicated on the approved plans prior to any water being placed in the pool.

- 6. For stormwater control, provision shall be made for the collection and disposal of all run-off surface waters from paved areas, recontoured areas, pool overflow and higher levels. All collected waters are to be dispersed without causing nuisance to the adjoining properties.
- 7. For safety purposes, depth markers shall be provided at both ends of the pool.
- 8. For safety purposes, prior to the pool being filled a weather resistant poster detailing expired air resuscitation (mouth to mouth) methods shall be affixed within plain sight of the pool. A sign/notice with the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" shall be erected in clear view and in close proximity to the pool.
- 9. 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 housed in a sound attenuating enclosure and located where indicated on the approved plans or as varied by this consent.
- 10. A balustrade shall be provided where the pool concourse stands more than 1.0 metre above the finished ground level.
- 11. 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.
- 12. 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.
- 13. 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.
- 14. To ensure compliance with the Swimming Pools Act, 1992, the existing boundary fence, forming part of the safety fencing to enclose the pool shall be upgraded or otherwise so altered or reconstructed so as to comply with the provisions of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools". The overall height of the dividing fence is not to exceed 1.8 metres in height above the natural ground level. Attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owners which may arise in respect of this matter and enquiries in this regard may be made at the nearest Local Court.

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- 15. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
- 16. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
- 17. HOURS OF WORK: For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

- 18. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
- 19. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
- 20. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
- 21. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
- 22. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
  - a. The type and size of machinery proposed.
  - b. The routes of all trucks to convey material to and from the site.
  - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.

- 23. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
- 24. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 25. 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.
- 26. 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.

- 27. 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.
- 28. Any fencing and associated footings shall be constructed entirely within the boundaries of the property.
- 29. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
- 30. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
- 31. 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.
- 32. 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.

- 33. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
- 34. 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.
- 35. 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.
- 36. 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.
- 37. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
- 38. 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.
- 39. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
- 40. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.

#### Item 2

- 41. 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.
- 42. 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.
- 43. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
- 44. 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.
- 45. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
- 46. "Peep holes" shall be provided to the entrance doors of all units for personal security.
- 47. Stormwater runoff from all hard surfaces generating runoff or landscaped areas which are not at natural ground level shall be piped to the interallotment stormwater drainage line benefitting the subject site. The interallotment line is to be covered by the necessary easement for drainage which may exist or need to be created under this consent.
- 48. A mandatory rainwater re-use tank system, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
- 49. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided in front of the garage door and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by debris.

#### Item 2

- 50. For stormwater control all paved areas are to be drained to the main drainage system. This may require the installation of suitable cut-off structures, inlets and/or barriers that direct runoff to the formal drainage system.
- 51. 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.
- 52. 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.
- 53. 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.
- 54. 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.
- 55. 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".
- 56. 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.
- 57. 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 <u>www.sydneywater.com.au</u> 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.

- 58. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service.
- 59. Stormwater quality control measures, as described in chapter 8 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
- 60. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

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

- 61. 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.
- 62. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the Council shall be required at monthly intervals. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.
- 63. 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

Eucalyptus saligna (Sydney Blue Gum)

6 metres

64. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.

- 65. Prior to the issue of the Construction Certificate, the applicant shall submit for approval of the Principal Certifying Authority, documentary evidence demonstrating that the Plan of Consolidation of Lots 103, 104, 105 in DP263569 has been registered at the Department of Lands.
- 66. The private courtyards to Dwellings 2.01 and 2.02 are to be limited to the area as identified on plan *DA03 Amendment C*. The remainder of the area is to be available as common property as shown on the plan, with the path providing access to the area being made accessible in accordance with AS 1428. Details are to be provided for approval with the construction certificate.

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

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 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 SEVEN (7) ADDITIONAL DWELLINGS/LOTS IS CURRENTLY \$84, 828.10. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

## OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm)1.25 personsMedium dwelling (75 - under 110 sqm)1.75 personsLarge dwelling (110 - under 150sqm)2.75 personsVery Large dwelling (150sqm or more)3.5 personsNew Lot3.5 persons

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

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

73. A 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 landscape plan shall include the following amendments;

- The landscape plan shall comply with the approved drainage details.
- In accordance with Council's Tree Replenishment Policy at least 10 trees that attain a height of 13 metres are required.
- 74. The property shall support a minimum number of 24 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council 's Landscape Development Officer, prior to commence of work.
- 75. The 10 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.
- 76. 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.

77. 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

*Eucalyptus saligna* (Sydney Blue Gum) /Adjoining property No. 56 – 58 Killeaton Street, adjacent to the north western boundary

2 x *Liquidambar styraciflua* (Liquidambar) /South western corner

*Araucaria heterophylla* (Norfolk Island Pine) /South western corner

3 x *Nyssa sylvatica* (Tupelo) /Southern boundary adjacent to Units 2.01 & 2.02

2 x Ulmus glabra 'Lutescens' (Golden Elm) /Southern boundary adjacent to Unit 2.01.

*Taxodium distichum* (Swamp Cypress) /Centre of southern boundary

Tilia cordata (Small-leafed European Linden) /South eastern corner

*Cedrus deodara* (Himalayan Cedar) /Northern boundary, adjacent to Unit 2.01

*Castanospermum australe* (Moreton Bay Chestnut) /Adjacent to driveway entrance

*Macadamia tetraphylla* (Macadamia) /Adjacent to driveway entrance

78. 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.

To preserve the following trees the drainage lines located on the southern side of the dwelling shall be relocated from beneath the canopies of the specified trees. Alternatively the excavation for the installation of the stormwater shall be carried out using the thrust boring method.

Thrust boring shall be carried out at least 600mm beneath natural ground surface to minimise damage to the trees root systems.

Amended drainage details indicating these works shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

<u>Tree/Location</u> 3 x *Nyssa sylvatica* (Tupelo) /Southern boundary adjacent to Units 2.01 & 2.02

2 x Ulmus glabra 'Lutescens' (Golden Elm) /Southern boundary adjacent to Unit 2.01.

*Taxodium distichum* (Swamp Cypress) /Centre of southern boundary

Tilia cordata (Small-leafed European Linden) /South eastern corner

- 79. Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for approval by the Principal Certifying Authority (PCA). These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement parking slab. The driveway profiles must demonstrate the following:
  - a. That vehicular access can be obtained using grades of 25% (1 in 4) maximum and

b. That all changes in grade (transitions) comply with Australian Standard 2890.1 – "Offstreet car parking" (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.

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

- 80. Prior to issue of the Construction Certificate, submission of details and certification by a qualified civil/traffic engineer, for approval by the Principal Certifying Authority (PCA), that the parking provisions provided in common areas and within private parking areas comply with the following standards:
  - a. The State Environmental Planning Policy for Senior Living (particularly relating to height clearances and space dimensions) and
  - b. Australian Standard 2890.1 2004 "Off-street car parking" and
  - c. The 2.5 metres headroom requirement under DCP40 for waste collection trucks (where internal collection is required).
  - d. No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection from the basement garbage storage area.
- 81. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater Soils and Construction" (1998). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
- 82. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including garden irrigation, laundry and toilet flushing. The necessary pumping, housing, filtration and delivery plumbing equipment for re-use shall be shown on this design. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. These details may be incorporated on the overall stormwater management plan and design for the retention/detention system.
- 83. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components, including stormwater quality control measures. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 Plumbing and Drainage Code.

- 84. The Applicant must carry out the following infrastructure works in the Public Road, unless the works have already been completed.
  - Upgrade footpaths and kerb ramps between the subject site and Cowan Road, and construct a pedestrian refuge in Cowan Road, to comply with AS1428.1 and the Seniors Living Policy, as recommended in the Access Assessment Report prepared by Accessibility Solutions dated 8 April 2004.

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

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

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

- NOTE 1: A minimum of three (3) weeks will be required for assessment of Roads Act submissions. Early submission is highly recommended to avoid delays in obtaining a Construction Certificate.
- NOTE 2: An engineering assessment fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees.
- NOTE 3: Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.
- 85. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$20,000 bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall

be refundable following completion of **all** works relating to the proposed development or at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b. The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- 86. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention/retention system. The design shall be generally based on the concept plan 56979/A by Kneebone & Beretta, advanced for construction purposes, except that **water quality measures** as described in Chapter 8 of DCP 47 are to be provided. 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 a minimum 100m<sup>2</sup> roof area for each 5000 litres of storage. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.
- 87. Prior to issue of the Construction Certificate, a revised plan shall be submitted to demonstrate that the shared entrance areas to the two buildings are able to be locked, in accordance with the Crime Prevention Clause 35(b) of SEPP (Seniors Living) 2004.

# 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. 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.
- 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.

Tree/Location	Radius in Metres
2 x <i>Liquidambar styraciflua</i> (Liquidambar) / South western corner	4 metres

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Item 2

<i>Araucaria heterophylla</i> (Norfolk Island Pine) / South western corner	4 metres
3 x <i>Nyssa sylvatica</i> (Tupelo) / Southern boundary adjacent to Units 2.01 & 2.02	3 metres
2 x Ulmus glabra 'Lutescens' (Golden Elm) / Southern boundary adjacent to Unit 2.01.	3 metres
<i>Taxodium distichum</i> (Swamp Cypress) / Centre of southern boundary	3 metres
Tilia cordata (Small-leafed European Linden) / South eastern corner	4 metres
<i>Cedrus deodara</i> (Himalayan Cedar) / Northern boundary, adjacent to Unit 2.01	4 metres
Castanospermum australe (Moreton Bay Chestnut) / Adjacent to driveway entrance	1 metre
Macadamia tetraphylla (Macadamia) / Adjacent to driveway entrance	1 metre
2 x <i>Diospyros kaki</i> (Chinese Persimon) / Centre of southern boundary	3 metres

- 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. 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.
- 93. Council property adjoining the construction site must be fully supported at all times during all excavation, demolition and building construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified Structural Engineer or Geotechnical Engineer, must be submitted for the approval of the Principal Certifying Authority (PCA), before the commencement of the works, and prior to issue of the Construction Certificate. Backfilling of excavations adjoining Council property or any void remaining at completion of construction between the building and Council property must be fully compacted prior to the completion of works.

- 94. Prior to the commencement of any works on the site, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), certification from a suitably qualified and experienced civil/hydraulic engineer that:
  - a. The existing pipes within the interallotment drainage easement system to be utilised, not to be reconstructed, are in satisfactory condition and
  - b. The existing pipes to be utilised have hydraulic capacity to carry design flowrates and/or detention system overflows (where detention systems are to be provided) from the subject property as far as the approved point of discharge to the public drainage system.

Where it is found that the existing pipes are in disrepair or will have insufficient hydraulic capacity to carry additional flows from the approved development the Applicant shall submit full design documentation for an upgraded interallotment drainage system from the subject property to the approved point of discharge to the public drainage system. This design documentation shall be approved by the Principal Certifying Authority (PCA), prior to commencement of any works on the site. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with in accordance with Council's Water Management DCP 47 (available on Councils website and at Customer Services) and the Plumbing and Drainage Code (AS3500). New pipes within the downstream easement drainage system must be sized to have adequate capacity to carry design flowrates, or detention system overflows where detention systems are to be provided, from the subject property. The following details must be included:

- a. Plan view of interallotment system to scale showing dimensions, location and reduced levels of all pits, grates, pipe inverts, flushing facilities and exact point of discharge,
- b. The contributing catchment calculations and supporting pipe sizing information,
- c. Longitudinal section showing existing ground levels and proposed pipe invert levels, grades and flow capacities,
- d. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system,
- e. Means to preserve the root systems of trees within seven (7) metres of the drainage system.
- 95. Prior to the commencement of any other works on the site, with the exception of tree protection and erosion and sediment control measures, the construction of the required interallotment drainage system must be completed in full. The designing engineer or equivalent professional engineer must supervise the works. At the completion of works, and prior to issue of the Construction Certificate, the following shall be submitted to the Principal Certifying Authority (PCA):
  - a. Certification from the supervising engineer that that the as-constructed works comply with the approved interallotment design documentation, and
  - b. A full works-as-executed drawing of the as built drainage line (dimensions, grades, materials, invert levels) prepared by a registered surveyor, and
  - c. Certification from the surveyor that all drainage structures are wholly contained within the drainage easement(s).

- 96. Prior to the commencement of any works on the site the applicant is to provide to Council a dilapidation report prepared by a suitably qualified engineer, including photographs, of the existing right of way/ private road. A copy of the report shall also be provided to the other property owners who benefit from the right of way.
- 97. Due to the location of the development site off a main road, the applicant must submit, for review by Council Engineers, a Traffic Control Plan. The plan must be prepared by a qualified civil/traffic engineer in accordance with the documents SAA HB81.1 1996 "Field Guide for Traffic Control at Works on Roads Part 1" and RTA "Traffic Control at Work Sites (1998)". The following matters must be addressed:

## Heavy vehicle routes

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

#### Safe ingress and egress

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

# **Parking control**

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

#### Stages

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

- NOTE 1: The Traffic Control Plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained prior to the issue of the Construction Certificate. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition.
- *NOTE 2:* The traffic management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of any works on-site including excavation.

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

- 98. An easement for waste collection is to be created prior to occupation of the development. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.
- 99. For endorsement of the linen plan/issue of the subdivision certificate, the Applicant shall submit an original plan of subdivision plus six (6) copies, suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of Subdivision and its (5) copies, where Council is the consent authority:
  - a. The endorsement fee current at the time of lodgment.
  - b. The 88B Instruments plus six (6) copies,
  - c. A copy of the Occupation Certificate,
  - d. The Consulting Engineer's certification of the on-site stormwater detention/ retention facility. This must be on the standard Council on-site detention certification sheet, available from Councils customer services.
  - e. A copy of all works-as-executed plans required under the consent,
  - f. All Surveyor's and/or Consulting Engineer's certification(s) required under this consent,
  - g. The Section 73 (Sydney Water) Compliance Certificate.

Council officers will check the consent conditions on the subdivision. Failure to submit the required information will delay endorsement of the linen plan, and may require payment of rechecking fees.

- Note 1: Plans of subdivision and copies must not be folded.
- Note 2: Council will not accept bonds in lieu of completing subdivision works.
- Note 3: If the certifying authority is not Council, then a copy of all of the above must be provided to Council
- 100. For endorsement of the linen plan / subdivision certificate issue, the Applicant shall submit an original instrument under Section 88B of the Conveyancing Act with the plan of subdivision, plus six (6) copies. This is to create any required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the same.
- 101. Prior to release of the linen plan/issue of the subdivision certificate, the applicant shall create all burdens including but not limited to drainage easements, easements for services and rights-of-carriageway, as required. A registered surveyor is to certify, prior to release of the linen plan/issue of the subdivision certificate, that all existing interallotment drainage lines, services

and/or driveways are fully contained within the proposed burdens and/or that future provision of such are fully covered by the proposed burdens. Alternatively, where the surveyor is of the opinion that no interallotment easements or rights-of-carriageway are required, then certification to this effect must be submitted to the Principal Certifying Authority (PCA).

- 102. Prior to release of the linen plan/occupation of the development, the creation of a Restrictionon-Use under the Conveyancing Act, restricting the occupation of the premises to:
  - a. People aged 55 years or over, or people with a disability as defined by the provisions of the State Environmental Planning Policy for Seniors Living.
  - b. People who live with such people as defined in (a) above.
  - c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
- 103. All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention facilities, which are to be common property, must be included on the final plans of strata subdivision.
- 104. At the completion of works and prior to occupation of the development/release of the plan of subdivision, a second dilapidation report must be completed on the structural and visible condition of the entire right of carriageway servicing the site, recording conditions of all features originally assessed prior to the commencement of works. The report must be submitted to Council. Any damage to the shared driveway as a result of construction shall be repaired in full at the applicant's cost.

# CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

- 105. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.
- 106. Prior to issue of an Occupation Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention/retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention/ retention and re-use facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the 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.

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

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

- 108. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant 's designing engineer and the works shall be completed and approved in full to the satisfaction of Council' s Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.
- 109. Prior to the issue of an Occupation Certificate, the applicant is to reseal the private existing right of way at their own expense in accordance with any relevant standards.
- 110. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
- 111. 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 suitably qualified and experienced traffic/civil engineer, that:
  - a. The dimensions of all as-constructed private carparking spaces meet the dimension requirements of the Seniors Living SEPP (as last amended), and
  - b. The as-constructed carpark complies with the approved Construction Certificate plans, and
  - c. The vehicular headroom requirements of:
    - the Seniors Living SEPP (as last amended) for accessible parking spaces, and
    - Australian Standard 2890.1 "Off-street car parking", and
    - 2.44m height clearance for waste collection trucks (DCP 40) are met from the public street into and within the applicable areas of the basement carpark, and

- d. The gradients of the constructed access driveway from the public street to the basement carpark are in accordance with AS2890.1 and will not result in the scraping of the underside of cars.
- e. No doors or gates have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage area.
- 112. Prior to issue of an Occupation Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention/ retention and re-use are to be submitted to the Principal Certifying Authority (PCA) for approval. Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

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

- As constructed levels in comparison to design levels
- As built location of all detention devices on the property (plan view) and distances to nearest adjacent boundaries, buildings and easements
- As built locations of all pits and grates in the detention system, including dimensions.
- The size of the orifice or pipe control fitted.
- Dimensions of the discharge control pit and access grates
- The achieved capacity of the detention storage and derivative calculation.
- The maximum depth of storage over the outlet control.
- Top water levels of storage areas and RL's at overflow point(s)
- 113. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the installed rainwater retention devices, are to be submitted to the Principal Certifying Authority (PCA). Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

The Certificate is to certify:

- Compatibility of the retention system(s) with the approved Construction Certificate plans.
- Compliance with AS 3500.2 & AS3500.3:1998.
- Overflow from the installed retention devices directed to an approved disposal point.
- The capacity of the retention storage as approved.
- Provision of leaf gutter guards to all roof gutters.
- Measures to prevent mosquito breeding nuisance.
- Provision of a readily maintainable "first flush" system to collect sediment/debris before entering the tank(s).

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

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

- As constructed levels in comparison to design levels
- As built location of all tanks/retention devices on the property and distances to adjacent boundaries, buildings and easements
- Dimensions of all retention tanks/devices
- Top water levels of storage areas and RL's at overflow point(s)
- Storage volume(s) provided and supporting calculations/documentation.
- 114. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:
  - a. Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
  - b. The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500.3.2, and
  - c. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

- a. As built reduced surface and invert levels for all drainage pits and connection points.
- b. As built reduced level(s) at the approved point of discharge to the public drainage system.
- c. Gradients of drainage lines, materials and dimensions.
- 115. Prior to the release of any Occupation Certificate, a sign indicating the location of the visitor parking shall be erected at the intersection of the basement carpark access driveway and the main driveway to the development.

# **BUILDING CONDITIONS**

- 116. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
  - a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
  - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
  - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
  - d. Retaining walls and associated drainage.
  - e. Wet area waterproofing details complying with the Building Code of Australia.
  - f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
  - g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
  - h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
- 117. 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.
- 118. 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 2

119. 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.

- 120. 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.

121. 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.

122. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

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

K. Lithgow Executive Planner St Ives Ward

G. Bolton Team Leader St Ives Ward

M. Prendergast Manager Development Assessment Services M. Miocic Director Development and Regulation

Attachments:

Location Sketch Survey Site Plan Basement Plan Ground Floor Plan First Floor Plan Second Floor Plan Roof Plan Elevations Sections Landscape Concept Plan

3 / 1 4 Moore Street, Roseville DA 173/04 29 October 2004

# **DEVELOPMENT APPLICATION**

SUMMARY SHEET

REPORT TITLE:	4 MOORE STREET, ROSEVILLE - DEMOLITION OF THE EXISTING DWELLING AND CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY
WARD:	Roseville
DEVELOPMENT APPLICATION N <sup>O</sup> :	DA 173/04
SUBJECT LAND:	4 Moore Street, Roseville
APPLICANT:	Mr Surinder Yadav
OWNER:	Surinder and Anita Yadav
DESIGNER:	Surinder Yadav
PRESENT USE:	Residential
ZONING:	Residential Residential 2A
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Development Control Plan No 43 Car Parking, Development Control Plan No 40 Waste Management, Dual Occupancy Code, Development Control Plan No 38
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No 53, State Environmental Planning Policy No 55, SREP 20.
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	24 February 2004
40 DAY PERIOD EXPIRED:	4 April 2004
PROPOSAL:	Demolition of the existing dwelling and construction of an attached Dual Occupancy
<b>RECOMMENDATION:</b>	Approval

# DEVELOPMENT APPLICATION N<sup>O</sup> DA 173/04 PREMISES: 4 MOORE STREET PROPOSAL: DEMOLITION OF T DWELLING AND C ATTACHED DUAL

APPLICANT: OWNER: DESIGNER 4 MOORE STREET, ROSEVILLE DEMOLITION OF THE EXISTING DWELLING AND CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY MR SURINDER YADAV SURINDER AND ANITA YADAV SURINDER YADAV

# PURPOSE FOR REPORT

To determine an application for demolition of the existing dwelling and construction of an attached dual occupancy. Council has resolved that dual occupancy development applications are not to be determined under delegated authority.

# **EXECUTIVE SUMMARY**

Issues:	Dual Occupancy Code – roof height, setbacks, building length, built-upon area, first floor ratio, building envelope, soft landscaping.
Submissions:	One submission received.
Land & Environment Court Appeal:	Not applicable.
Recommendation:	Recommended for 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:**

The application was lodged on 24 February 2004.

Due to concerns about the setbacks provided and the height of the dwellings, revised plans were submitted on 19 July 2004. The revised plans removed the attic room at third storey and provide increased setbacks to Boundary Street and the neighbouring property at 115 Boundary Street.

# THE SITE AND SURROUNDING AREA

The site:

 Zoning:
 Residential Residential 2A

 Visual Character Study Category:
 1920 to 1945

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#### Item 3

Lot Number:	65
DP Number:	9515
Area:	1056.41m <sup>2</sup>
Side of Street:	Western
Cross Fall:	North East to South West
Stormwater Drainage:	To Boundary Street
Heritage Affected:	No
Required Setback:	7 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The site is known as 4 Moore Street, Roseville is legally described as Lot 1 in DP 598875 and Lot 65 in DP 9515 and is located on the western side of Moore Street. The site has been subject to an application for Lot amalgamation earlier this year, which was approved. The combined area of the two lots is  $1,056.41m^2$ .

The site fronts two roads, with frontage to both Moore Street and Boundary Street. This is an unformed intersection and provides for pedestrian access between Boundary Street and Moore Street.

The site is sloping, with a cross-fall from the north-eastern corner to the south-western corner of approximately 5 metres.

The site is occupied by a single storey, brick and tile, inter-war dwelling house, with existing vehicle and pedestrian access to Moore Street.

#### Surrounding development:

The site is located within the 1920 to 1945 visual character area and is characterised by a mixture of dwellings of one and two-storeys. The predominant single storey building style is Californian Bungalow. The subject site itself is occupied by a Californian Bungalow.

There is a variety of both new and old housing stock, with the most recent dwellings tending to be two storeys. Adjoining the site to the north, is a part one/part two storey dwelling (No.6 Moore Street). To the east, across Moore Street, is a large church building of modern construction. Numbers 8 and 10 Moore Street are of single storey construction, while number 12 Moore Street is of modern construction and two storeys.

# THE PROPOSAL

The proposal is to construct an attached dual occupancy development. The dwellings will each have a double garage, located between the dwellings. Access to these garages will be via a single driveway leading from Moore Street to the south of the dwellings. Private open space for the

#### Item 3

dwellings is provided to their north, leading from living areas. A new timber paling fence will separate these private open space areas.

Details of the proposed development are as follows:

## **Dwelling 1 (eastern, fronting Moore Street)**

Dwelling 1 is two storeys in height and comprises a dining room, living room, family room, kitchen, laundry, study and WC at ground floor. The first floor level is comprised of a master bedroom with walk in wardrobe and ensuite, two bedrooms, bathroom and TV room. A double garage is provided for Dwelling 1, immediately alongside the garage for Dwelling 2. Dwelling 1 has an uppermost ceiling height of 7.0 metres.

## Dwelling 2 (western, rear dwelling)

Dwelling 2 is two storeys in height and comprises at ground floor level a living/dining area, study, family room, kitchen, laundry and bathroom. The second storey is comprised of two bedrooms, a master bedroom with ensuite and walk-in wardrobe, a TV room and separate bathroom. A double garage is also provided for Dwelling 2. Dwelling 2 has an uppermost ceiling height of 6.4 metres.

## Amended Plans dated 12 and 19 July 2004

The amended plans revise the proposal in the following way:

- The original plans provided for an attic level (essentially a third storey). This attic level has been removed in its entirety.
- The original plans provided for minimum setbacks to the west of Dwelling 2, and to Boundary Street. These setbacks have both been increased. The setback to the west of Dwelling 2 is now 3 metres (from an original 2.1 metres). The setback to Boundary Street is now 3.9 metres (from an original 2.9 metres). The setbacks to No. 6 Moore Street have consequently been reduced from 6.4 metres to 5.4 metres (for Dwelling 2). The setback of Dwelling 1 has likewise reduced from 5.2 metres to 4.8 metres.
- The driveway serving the garages has been amended. Previously the proposed access was inadequate due to insufficient turning areas and potential conflicts between vehicles. This has been resolved and now complies with the requirements of Council's Development Engineers.

# Amended Plans dated 5<sup>th</sup> October 2004

Further amended plans were submitted to correct a discrepancy between the elevations and floor plans. Drawing DA03 (dated 05.10.04) has been submitted, which clearly shows a window serving the study of Dwelling 2. This was previously omitted.

# **CONSULTATION - COMMUNITY**

The following comments have been received:

#### Item 3

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

# **Original scheme dated 24 February 2004**

1. Esterman family, 6 Moore Street, Roseville.

The submission raised the following issues:

# Height of the proposed dwellings is in excess of the current dwelling and will intrude on privacy of neighbouring occupants

The height of the proposed dwellings is not out of context when considering the variety of dwellings within the area, which consists of both one and two storey dwellings.

# Built-upon area is excessive

The built-upon area is in accordance with the maximum under the Ku-ring-gai Planning Scheme Ordinance. The proposal exceeds the maximum built-upon area requirement of Council's Dual Occupancy Code, however the non-compliance is acceptable on planning grounds as discussed below.

# Stability of the land proposed for the driveway is questionable

The application has been assessed by Council's Development Engineer who raises no concerns about the stability of the land in question. Details required at construction stage ensure that the stability and finish of the driveway are satisfactory (*refer to Condition No. 47*).

# North-facing windows of the dwellings will look into the property

The application proposes three windows at first floor which will afford viewing directly towards No.6 Moore Street. These windows are all to bedrooms, and are located a minimum distance of 6.6 metres from the boundary of 6 Moore Street. Given the low intensity useage of these rooms and the separation distance proposed, there will be no adverse environmental impact upon the neighbours.

# On-street parking is a major problem due to the church immediately across the road Proposed off-street parking and access to parking would be inadequate due to problems with the church parking at present.

The application has provided four, on-site, parking spaces in accordance with the requirements of SEPP53.

# Objection to the removal of the tree on the boundary of Number 4 and 6 Keith Street

The landscape plan indicates the removal of the *Cinnamonum camphora* on the boundary of 4 and 6 Keith Street. This is the most significant tree on the site, however, the species is recognised as a weed and its removal is required under Councils policies for weed management. Approval of this

#### Item 3

development will require the planting of a minimum of 5 trees to reach 13 metres in height (*refer to Condition No. 66*).

# Fencing between Numbers 4 and 6 Moore Street needs to be more adequately considered. Fence to a height of at least 1.8 metres needs to be considered.

The landscape plans propose a rendered retaining wall to a height of 600mm plus a screening hedge along the entire northern boundary. This, in combination with the setbacks proposed, would provide sufficient screening for the amenity of both Nos 4 and 6 Moore Street.

# Shadowing of the neighbouring property on Boundary Street.

Shadow diagrams have been prepared which indicate that the neighbouring property on Boundary Street (No.115 Boundary Street) will receive some overshadowing in the morning. However, full solar access will be received from 12:00 onwards, which is considered sufficient and is compliant with the provisions of SEPP53 and Council's controls.

# Amended and additional plans dated 12 and 19 July 2004

The amended and additional plans were also notified in accordance with Council's Notification Policy. All concerns as expressed above by the Esterman family were re-iterated.

# Amended plans dated 5 October 2004

The amended plans of 5 October 2004 were notified in accordance with Council's Notification Policy. The previous objector (of 6 Moore Street) was advised in writing of the discrepancy but has not responded.

# **CONSULTATION - WITHIN COUNCIL**

# Heritage

Council's Heritage Advisor commented on the proposal as follows:

The existing house is an intact Inter War bungalow c 1930-1935 with detailing typical of the period, including stone base, dark brick walls. The fence and garden are also representative of the period. It related well with the other houses on that side of the street. This site is the last in the street with a cutting to Boundary Road a 6 lane main road. The land is part of a National Trust UCA. The house would be considered as Contributory to the UCA. As Council resolved about 3 years ago not to review the UCA there would be no grounds to refuse demolition unless other historical or other significance of the house were found and on that basis I do not object to demolition.

The site is slightly larger that adjoining properties and could accommodate two dwellings without any undue impacts on the neighbours. The location as the last house in the street with a larger scaled Church building opposite would visually terminate the scale in the street. The new dwellings have reasonable orientation to solar access and private open space. The

Item 3

design is plain, but is no worse that some other nearby recent developments which have changed the largely intact character of the area. The upper floors are slightly reduced in plan area.

I do not object to demolition of No 4 but wish to note that this area is relatively intact and Council could consider reviewing the National Trust UCA. In my view the revised application would not have any adverse Urban Design issues. I wish to comment that different colours and different bricks would assist in giving more identity and definition to each dwelling.

A condition of consent can ensure that the two dwellings are finished with different materials so as to provide more identity and definition (*refer Condition No.* 72).

## Landscaping

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

#### Impact on trees/Tree removal

The site's most significant tree is a semi mature Cinnamomum camphora (Camphor laurel) located adjacent to the north west (side) site boundary. The tree is located away from proposed development works, however the species is recognised as an environmental weed and its removal is required under councils policies for weed management.

Other trees located on site proposed for removal have low landscape significance

#### Landscape Plan

The proposed landscape plan DOES NOT comply with councils Tree Replenishment Policy, as there are no canopy trees able to grow to a minimum height of 13.0 metres proposed. It is required that a minimum of five (5) canopy trees be planted on site.

The application can be supported with conditions.

*Comment:* Conditions of consent can ensure that tree replenishment and other requirements are carried out (*refer to Conditions Nos 64-67*).

# Engineering

Council's Development Engineer commented on the proposal as follows:

A revised plan has been submitted by the applicant addressing concerns raised by Development Engineers. A turning area has been enlarged for the rear garage, which is considered satisfactory. Doorway widths and driveway width have also been increased to comply with AS2890.1.

The stormwater plans prepared by ADC Design Group P/L. dated 11/1/04, is considered satisfactory in principle but is not to be stamped with the DA plans.

No further engineering issues are raised subject to conditions

Conditions of consent are therefore recommended (refer to Conditions Nos 47-50, 68-70, 88-92).

# STATUTORY PROVISIONS

#### **State Environmental Planning Policy No. 53**

COMPLIANCE TABLE		
Development standards	Proposed	Complies
Allotment size (cl.19(1)(a)) • 600m <sup>2</sup> attached dual occ. (min)	$1056.41 \text{m}^2$	YES
<b>Floor space ratio (cl.19(1)(b))</b> • 0.5:1 (max)	0.39:1 (411.9m <sup>2</sup> )	YES
<ul> <li>Car parking (cl.20)</li> <li>Dwelling 1: 2 car spaces (min)</li> <li>Dwelling 2: 2 car spaces (min)</li> </ul>	Dwelling 1: 2 car spaces Dwelling 2: 2 car spaces	YES YES

#### Site analysis (cl.31):

Clause 31 states that a consent authority cannot approve a development unless it has taken into consideration a Site Analysis prepared in accordance with the SEPP. The documentation submitted with the application, including Site Plan, Statement of Environmental Effects and survey, is considered satisfactory in terms of this Clause and Schedule 5 of SEPP 53.

#### Streetscape (cl.32(a)):

Moore Street is characterised by a mixture of both single and two storey dwelling houses. The visual character of the area is between 1920-1945, and this is reflected in the number of inter-war dwellings within the area. There are also several new dwellings in the street, which are of two storeys.

The modified design of the dwelling, proposing two storeys to a ceiling height of 7.0 metres, will be suitable for the streetscape. The dwellings are set at a lower ground level to those further along Moore Street, thus the higher ridge height of the dwelling is satisfactory when considered in the context of the streetscape.

The dwelling will be set back from the front boundary by 7.0 to 7.5 metres, the same building line as at present. The neighbouring dwelling at 6 Moore Street is set well forward on the property also, at 6.2 metres from the front boundary.

For the above reasons, the proposed development will not detract from the existing character of the streetscape and is in accordance with the streetscape provisions of SEPP53.

Item 3

## Visual privacy (cl.32(b)):

Both dwellings have been provided with sufficient setbacks to the boundaries of the site so as to minimise any potential for overlooking of the adjoining sites.

There are three windows from the proposed two dwellings at first floor level which afford overlooking of No.6 Moore Street. All three of these windows are to bedrooms and are a minimum distance of 7.2 - 7.4 metres from the boundary. Given the nature of these rooms, the separation distance provided and the proposed landscape screening, is sufficient to ensure no impact on the privacy of the neighbouring property at 6 Moore Street.

## Acoustic privacy (cl.32(b)):

The application proposes outdoor living space to the north of the two dwellings, exiting from the proposed family rooms.

The boundary between the subject site and number 6 Moore Street is currently distinguished by an irregular paling fence, which in places is in disrepair. In order for there to be minimal impact upon the privacy (both acoustic and visual privacy) a more suitable side boundary fence should be installed to a height of 1.8 metres. This, in combination with the planting along the boundary, will ensure adequate visual and acoustic amenity for the residents of the proposed dwellings as well as the neighbouring dwelling at 6 Moore Street (*refer to Condition No. 64*).

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

#### Solar access to adjoining properties

The extent of overshadowing cast by the proposal is as follows:

9.00am (June 22):

At this time of day, the overshadowing will extend into the front setback of the adjoining residence at 115 Boundary Street. The overshadowing of this neighbouring property will not extend beyond 12:00 noon.

#### 12.00 noon (June 22):

At this time of day, the overshadowing will extend into Boundary Street. There will be no consequent impact upon any neighbouring property.

3.00pm (June 22):

At this time of day, the overshadowing will extend into Boundary Street. There will be no consequential impact upon any neighbouring properties.

Accordingly, the development will have no adverse impact upon the solar access of neighbouring properties.

#### Stormwater (cl.32(d)):

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Each dwelling is provided with its own on-site detention storage tank, with all stormwater being drained to Boundary Street. Council's Development Control Engineer does not object in principle to the proposed development in relation to stormwater disposal and has recommended standard conditions (*refer to Conditions Nos 48-49*).

#### Crime prevention (cl.32(e)):

Both dwellings have pedestrian and vehicular access from Moore Street. Dwelling 1 has living areas which afford immediate viewing of the Moore Street access points. Residents of Dwelling 2 would be able to survey the pedestrian and vehicular access point from the kitchen window. The layout is therefore considered satisfactory with respect to Clause 32(e) of SEPP53.

#### Accessibility (cl.32(f)):

Vehicular access is available from Moore Street. Both dwellings include double garages. Pedestrian access is available straight to Dwelling 1, whilst Dwelling 2 is accessible by pedestrians via the driveway.

The application is therefore considered to meet with the accessibility requirements of Clause 32(f) of SEPP53

#### Waste management (cl.32(g)):

Conditions have been recommended to achieve compliance with Council's standard waste management requirements (*refer to Conditions Nos 27-35*).

#### Visual bulk (cl.32(h)):

Both dwellings are of two storeys in height, yet appear lower due to the topography of the land. Given the setbacks provided, the development is compatible with the characteristic built environment, that being dwelling houses located within a landscape setting. Neither dwelling impact adversely upon the amenity of neighbouring properties.

## State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP55 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)

#### Aims and Objectives for Residential Zones

The development: (i) provides satisfactory levels of solar access & privacy to surrounding properties; (ii) is of a bulk, scale and design characteristic of the area; (iii) maintains adequate levels of soft landscaping; (iv) provides suitable egress/ingress for vehicles; and (v) maintains the

#### Item 3

landscape quality of the municipality. Consequently, the aims and objectives for residential development as outlined by Schedule 9 have been satisfied.

	COMPLIANCE TABLE	
Development standard	Proposed	Complies
<b>Building height</b> 8m (max)	Dwelling 1: 6.3m (ceiling level - Moore Street)	YES
	Dwelling 2: 6.2m (ceiling level - rear of site)	YES
	The following information is not a statutory control.	
	This information is provided for the benefit of	
	councillors:	
	Height to roof ridge - Dwelling 1: 7.9m	
	Height to roof ridge - Dwelling 2: 7.7m	
	Height to eaves line – Dwelling 1: 6.5m	
	Height to eaves line – Dwelling 2: 6.5m	
Built-upon area 60% (max)	47%	YES
Notional built-upon area	Dwelling 1: 51% (586m <sup>2</sup> site)	YES
·····	Dwelling 2: 43% ( $469m^2$ site)	YES

## POLICY PROVISIONS

## **Development Control Plan 40 – Waste Management**

The site is of a sufficient size to accommodate waste storage and recycling facilities associated with the proposed use in accordance with DCP 40.

## **Development Control Plan No. 43 – Car Parking**

The proposal complies with DCP 43 which requires the provision of 2 parking spaces per dwelling.

## **Council's Dual Occupancy Development Control Code**

COMPLIANCE TABLE		
Development control	Proposed	Complies
4.2 Streetscape:		
Roof pitch		
• 3m roof height-2 storey	Dwelling 1: 4.0m	NO
(max)	Dwelling 2: 3.8m	NO
• Roof pitch 35 <sup>0</sup> (max)	Dwelling 1: $22^{0}$ Dwelling 2: $22^{0}$	YES
Fences		

lte	em 3	4 Moore Stree 29 Oc	DA 173/04 ctober 2004
•	Front fence height: 900mm (solid fence) (max)	No front fencing proposed – existing low brick fence to be retained	YES
•	Side fence height:1.8m (max)	No side fencing proposed	N/A
	<b>3</b> Visual and acoustic privat	cy:	
Vi •	sual privacy Windows to habitable rooms set back 9m from neighbouring windows (min)	9.8 metres between Dwelling 1 and neighbouring 6 Moore Street	YES
4.4	Solar access and design fo	r climate:	
So •	<b>lar access</b> Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min)	Dwelling 1: 3+ hours solar access received (North Facing) Dwelling 2: 3+ hours solar access received (North Facing)	YES YES
•	Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min)	All neighbouring properties receive 3+ hours solar access. Proposal will not impact upon solar access of neighbouring properties.	YES
•	accept star NatHERS Rating (min) or combined summer/winter thermal assessment of 60%	Required by condition	YES
	Accessibility: hicular access and car		
	rking dimensions		
•	Garage – 3.1m x 5.4m (min)	Dwelling 1: 5.4m x 5.3m Dwelling 2: 5.4m x 5.3m	YES YES
	Visual bulk:	F	
•	Ailding setbacksCorner site street frontagesetback: 7m (min) with50% of façade at 5mSide setback12% or 2.775m required	Dwelling 1 (primary street frontage) setback 8.295m Dwelling 2 (secondary frontage) setback 5.63m Dwelling 1: Minimum 5.315m Dwelling 2: 5.63m	YES NO YES YES
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3/12

4 Moore Street, Roseville

## Ordinary Meeting of Council - 9 November 2004

#### Item 3

#### 3 / 13 4 Moore Street, Roseville DA 173/04 29 October 2004

• Rear setback: Up to 6.87 m(min) to rear of Dwelling 2	4.0m	NO
Building form		
• Unrelieved wall length:	Maximum of 11.4 metres (garage elevations to north)	YES
12m (max)		NO
• Total building length: 24m (max)	35.8 metres through both dwellings	NO
Built-upon area		
• Total built upon area		
(max): 40%	47%	NO
Notional built upon area	Dwelling 1: 51%	NO
• Notional built-upon area	Dwelling 2: 43%	NO
		110
Floor space ratio		
• FSR (max): 0.5:1	0.39:1	YES
• $1^{\text{st}}$ floor – 40%	Dwelling 1: 44%	NO
1 11001 10/0	Dwelling 2: 46%	NO
	, , , , , , , , , , , , , , , , , , ,	
Height of buildings		
• Dwelling fronting street:	See explanatory section below- merit assessment	YES
merit assessment for dual		
street frontage		
• Building envelope: 45 <sup>0</sup>	Dwelling 1	
from horizontal at any	Complies	YES
point 3m above boundary		
	Dwelling 2	NO
	Western boundary infringement of projecting window	
Cut and fill (building works)		
• Cut & fill: 900mm &	Dwelling 1: 900mm (cut)	YES
Total 1800mm (max)	Dwelling 2: 700mm (cut)	YES
	Max 600mm level difference	YES
Section 5: Landscaping & O	nen Space	
Total soft landscaping :	53%	NO
60% (min)		
Notional soft landscaping:	Dwelling 1: 49%	NO
	Dwelling 2: 57%	NO
Tree retention and		
refurbishment		

N:\041109-OMC-PR-02967-4 MOORE STREET ROSEVILLE.doc/klithgow/13

#### Item 3

#### 3 / 14 4 Moore Street, Roseville DA 173/04 29 October 2004

• No. of Trees: 5 (min)	Required by condition	YES
<ul> <li>Cut &amp; fill (landscaping)</li> <li>Cut &amp; Fill: 900mm &amp; Total 1800mm</li> </ul>	600m (fill) located up to northern boundary	YES
<ul> <li>Open space provisions</li> <li>Area: 100m<sup>2</sup> or 2 x 75m<sup>2</sup> areas (min)</li> </ul>	Dwelling 1: $114m^2$ Dwelling 2: $>140m^2$	YES YES
• Min dimension 5m x 5m (min)	Dwelling 1: 8.8mx4.8m Dwelling 2: 9.5m x 6.6m	YES YES
• Grade: 1 in 8 (12 <sup>0</sup> max)	Dwelling 1: 5 <sup>0</sup> Dwelling 2: 4 <sup>0</sup>	YES YES
• 50% receives 3+ hours solar access (min)	Dwelling 1: Open space receives 3+ hours solar access Dwelling 2: Open space receives 3+ hours solar access	YES YES

#### **Streetscape controls**

#### • Roof Height

The application exceeds the maximum height of 3 metres for a two-storey roof. Dwelling 1 has a height from ridgeline to eave of 4.0 metres, while Dwelling 2 has a height from ridge to eave of 3.8 metres.

This non-compliance is due to the design of the roof forms, which are hipped and pitched. The design of the roofs actually reduces bulk as perceived from the south and north and the introduction of ornamental pitch forms above the windows will facilitate to break up the roof mass. The roof forms will not be overly dominant or visually obtrusive as viewed from the two streets.

Accordingly, the proposal is considered to be consistent with the relevant objectives 4.2 of the Dual Occupancy Development Control Code.

#### Visual bulk controls

#### • Corner street setback

Dwelling 2 proposes a set-back of 5.63 metres from Boundary Street. The Dual Occupancy Code requires a setback (for a secondary street frontage) of 7.0 metres.

Consideration has been given to the nature of the Boundary Street frontage, which lacks consistency. The church immediately opposite the site, on the other corner of Boundary and Moore Streets, contains no front setback to Boundary Street and is also of two storeys in height. To the west of the subject site is No. 115 Boundary Street, which is single storey and has a front setback of 13.2 metres.

It is considered that the proposed design will still allow for sufficient landscaping along this boundary, which will soften the appearance from the Boundary Street frontage. Furthermore, due to vehicular traffic, this frontage is not ideal to be used for private open space or amenity. It is considered more desirable to reduce this setback and place the private open space to the north away from Boundary Street.

Accordingly, notwithstanding the numeric non-compliance, the proposed building setbacks are considered satisfactory.

#### • Rear setback

The application proposes a rear setback of 4.0 metres. This is as measured between No. 115 Boundary Street to the west and Dwelling 2.

The rear setback in this instance is more akin to a side setback. It is considered that the distance provided is suitable to establish reasonable landscaping and that the setback provided will respect the rhythm and character of Boundary Street, which is characterized generally by lesser side setbacks than the 4.0 metres proposed in this instance.

#### • Building form

Council's Dual Occupancy Code requires a building length of no more than 24 metres. The attached dwellings measure 35.8 metres in length, as measured from the east of Dwelling 1 through to the west of Dwelling 2.

The design of the attached dwellings incorporates sufficient architectural relief and modulation, thereby avoiding a bulky, lengthy appearance. The dwellings incorporate several projections, as well as the garaging within the middle of the site so as to break up and add interest to the facades.

Further, given the level of Boundary Street, and the proposed fencing and landscaping, the garages will not be read from Boundary Street. The two dwellings will therefore appear more as two detached buildings.

Accordingly, the building form is satisfactory.

## • Built-upon area

Council's Dual Occupancy Code requires a total built-upon-area of no more than 40%. The proposed development incorporates a total built-upon-area of 47%. Dwelling 1 has a notional built-upon-area of 51%, and Dwelling 2 a notional built-upon-area of 43%.

The purpose of this standard is to require adequate proportion of the site for stormwater infiltration and soft landscaping. There have been no concerns raised by Council's Development Engineer with respect to stormwater infiltration, and consequently this is

#### Item 3

considered satisfactory. Likewise, it is considered that a suitable amount of soft landscaping can be provided on site for amenity purposes.

#### • First floor ratio

While the application conforms with the floor space ratio of 0.5:1, the development fails to comply with the maximum first floor ratio of 40% of total floor space. Dwelling 1 proposes a first floor of 44%, and Dwelling 2 a first floor of 46%. Nevertheless the dwellings relate well to the mixed character of the area (comprising both single storey and two storey dwellings) and, due to the satisfactory setbacks provided, limited built-upon area and landscaping provided, will not dominate the streetscape.

#### • Building envelope

Council's Dual Occupancy Code requires that dwellings not intersect the building height plane projected at an angle of  $45^{\circ}$  from a height of 3 metres on the boundary.

Dwelling 2 includes a projecting window on the western elevation which intersects this line. Given that the window is well set back from the boundary (i.e. 4.0 metres) is well screened by proposed vegetation and will not result in overshadowing to the neighbouring property, the infringement, being minor in nature, and will have no adverse effect on the amenity of No.115 Boundary Street.

Accordingly, the application is acceptable with regards to the building envelope.

## Landscaping and open space controls

• Total soft landscaping

Council's Dual Occupancy Code requires, where two storey dwellings are proposed, soft landscaping of at least 60%. The application proposes 53% soft landscaping. The application has been considered by Council's Landscape Officer, who concludes that there is sufficient distance provided around boundaries to allow for screen planting. The application also allows for substantial planting around the frontages, which will reduce the impact of impervious surfaces.

Accordingly, the application still provides sufficient soft landscaping.

## Section 94 Plan

The development attracts a section 94 contribution of \$19,337.22, which is required to be paid by *Condition 62.* 

## 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. The land is of adequate size and shape to accommodate the proposed development and to ensure that the dual occupancy integrates with the character of the surrounding area.

## ANY SUBMISSIONS

All submissions received have been considered in the assessment of this application, and where relevant, conditions have been recommended to address objectors concerns.

## PUBLIC INTEREST

The approval of the application would 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 satisfactory. Accordingly, 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 0173/04 for the proposed demolition of a dwelling and erection of an attached dual occupancy on land at 4 Moore Street, Roseville, for a period of two (2) years from the date of the Notice of Determination subject to the following conditions:

- The development must be carried out in accordance with plans numbered 0401/DA01(Rev.2) dated 02.07.04, 0401/DA02(Rev.2) dated 02.07.04, 0401/DA03(Rev3) dated 05.10.04, 0401/DA04(Rev.2) dated 02.07.04, 0401/DA06 (Rev.2) dated 02.07.04, 0401/DA07(Rev.3) dated 05.10.04, 0401/DA08 (Rev.2) dated 19.07.04 drawn by Surinder Yadav, and endorsed with Council's approval stamp, except where amended by the following conditions.
- 2. 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.
- 3. 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.

- 4. The dual occupancy development approved under DA 1089/03 is to be completed and an occupation certificate is to be issued by the Principal Certifying Authority prior to a Subdivision Certificate being released by Council under any separate subdivision application.
- 5. All building works shall comply with the Building Code of Australia.
- 6. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
- 7. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
- 8. HOURS OF WORK: For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.
- 9. 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. 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.
- 11. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
- 12. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
- 13. 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.
- 14. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.

- 15. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
- 16. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
- Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
- 18. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.
- 19. 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.
- 22. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
  - cause the windows or other openings in the external walls to be close boarded or otherwise covered;
  - cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
  - 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.
- 23. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
- 24. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.

#### Item 3

- 25. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
- 26. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
- 27. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
- 28. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
- 29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
- 30. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
- 31. 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.
- 32. 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.
- 33. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
- 34. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
- 35. External finishes and colours are to be sympathetic to the surrounding environment.
- 36. Any fence to be constructed between Dwelling One and Dwelling Two shall comply with the requirements of Development Control Plan No 46 Exempt and Complying Development.
- 37. Bathrooms and toilets must have installed maximum 6/3 litre dual flush cisterns and shower heads with reduced water flow devices to ensure water conservation.
- 38. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council 's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is

for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

- 39. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
- 40. 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.
- 41. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
<i>Cryptomeria japonica</i> (Crepe Myrtle) Adjacent to western (rear) site boundary	3.0m

- 42. 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.
- 43. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
- 44. 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

*Cinnamomum camphora* (Camphor laurel)

- 45. 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.
- 46. To facilitate landscape amenity the existing Pinus radiata (Radiata Pine) is to be removed.
- 47. Prior to issue of the Construction Certificate, the applicant must submit a structural design for the proposed shared driveway for approval by the Principal Certifying Authority. The design must be prepared by a qualified consulting civil/structural engineer and must have regard to

ensuring structural stability of the elevated driveway during vehicle and construction loading. The driveway must be constructed in accordance with this design.

- 48. 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. 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.
- 49. An on-site stormwater detention must be provided for each dwelling in accordance with Council's requirements described in chapter 6 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website. Separate systems are to be provided for each residence, except where a single combined system may be located in a common location readily accessible by both owners (such as under a shared driveway). In this case appropriate cross burdens are to be created on title(s) as necessary.
- 50. 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.
- 51. 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.
- 52. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
- 53. Construction of the concrete access driveway to the proposed dwellings. The driveway is to be constructed with a minimum clear width between adjacent obstructions of 3.0 metres in accordance with AS 2890.1 "Off-street car parking".

#### Item 3

- 54. 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 AS 2890.1 "Off-Street car parking".
- 55. For the purpose of any Council inspections, the appropriate fees set out in Councils adopted Schedule of Fees and Charges are payable to Council, prior to the release of the approved plans. A re-inspection fee per visit may be charged where remedial work is unprepared at the requested time of inspection or where remedial work is unsatisfactory and a further inspection is requested. Engineering fees must be paid prior to the final approval of the works.
- 56. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at <u>www.sydneywater.com.au</u> 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.
- 57. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.

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

58. 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.

59. 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).

- 60. 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.
- 61. 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.

Details prepared by a practicing structural engineer for :

- all or any reinforced concrete, structural steel or timber framing.
- 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.
- Retaining walls and associated drainage.
- Wet area waterproofing details complying with the Building Code of Australia.
- Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- 62. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLING IS CURRENTLY \$19,337.22. 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 13 August 2003, calculated for additional person as follows:

Ordinary Meeting of Council - 9 November 2004		3 / 25
Item 3		4 Moore Street, Roseville DA 173/04 29 October 2004
1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre	
	(including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre	
	for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Open Space	\$1,966.00
8.	Koola Park upgrade	\$143.09
9.	North Turramurra Sportsfield	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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

## OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

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

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

64. 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 shall include fencing to a height of 1.8 metres on the boundary of Nos 4 and 6 Moore Street. 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. A Landscape Assessment fee of \$ will be payable on lodgement of the required landscape plan, in accordance with the following schedule.

## Landscape Plan Certification Fees

Minor Landscaping Works New Dwellings/Dual Occupancies Multi-Unit Housing Commercial \$50.00 \$120.00 \$100.00 plus \$30.00 per unit \$100.00 plus 10 cents per m<sup>2</sup>

#### 3 / 26 4 Moore Street, Roseville DA 173/04 29 October 2004

- Item 3
- 65. A plan detailing screen planting of the northern and southern (side) site boundaries adjacent to the dwelling shall be submitted to Council prior to the release of the Construction Certificate and approved by Council's Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of 4.5 metres.
- 66. The property shall support a minimum number of five (5) trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.

The five (5) 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.

67. A CASH BOND/BANK GUARANTEE of \$4 000.00 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.

68. Prior to issue of the Construction Certificate footpath and driveway levels for any fully new, reconstructed or extended sections of 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.

- Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.
- Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.
- 69. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 Plumbing and Drainage Code.
- 70. The stormwater concept plan prepared by ADC Design Group P/L, Drawing No. C040247-C1A, dated 11/1/04 shall be amended to, but not limited to the following:
  - Elevations showing the tank invert level, invert level of the outlet orifice, top water level, sediment sump and finished surface levels are to be provided;
  - A boundary junction pit is to be provided for OSD 1;
  - A 150mm high kerb is to be provided along the driveway so that runoff from the driveway is directed to the OSD systems;
  - A high level overflow is to be provided for each system;
  - The outlet pipe to the kerb for each system is to be 200x100x6 RHS;

Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention including the above issues and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. These must be submitted to and approved by the Principal Certifying Authority (PCA) 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), details demonstrating compliance with the requirement of a minimum 3.5 star NatHERS Rating or combined summer/winter thermal assessment of at least 60% (as detailed within section 4.4.2 of Council's Dual Occupancy Code).

72. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details of external materials and finishes which ensure that Dwellings 1 and 2 have individual identity and definition and are not identical in finish.

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

- 73. 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.
- 74. 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.
- 75. 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.

Radius in Metres
3.0m

- 76. The tree protection fence shall be constructed of star pickets at 2.4 metre spacings and connected by four strands of 2mm wire at 300mm spacings to a minimum height of 1.5 metres prior to work commencing.
- 77. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

## CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

78. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following works must be completed:

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

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

- 79. Prior to issue of the Subdivision Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater 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 instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.
- 80. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, or the issue of an Occupation Certificate or the issue of a Subdivision Certificate.
- 81. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced civil/hydraulic engineer, prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate, that:
  - The works were carried out and completed in accordance with the approved plans.
  - All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier Prior to issue of the Final Compliance Certificate.

82. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the

Principal Certifying Authority for approval, prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must to also complete and submit Council's standard Onsite Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- a. Compatibility of the drainage system with the approved plans
- b. The soundness of the structure.
- c. The adequacy of the outlet control mechanism to achieve the discharge as specified.
- d. The capacity of the detention storage as specified.
- e. The size of the orifice or pipe control fitted.
- f. The maximum depth of storage over the outlet control.
- g. The adequate provision of a debris screen.
- h. The inclusion of weepholes in the base of the outlet control pit.
- i. The provision of an emergency overflow path.
- j. All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

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

## **BUILDING CONDITIONS**

- 83. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
  - a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
  - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
  - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
  - d. Retaining walls and associated drainage.

- e. Wet area waterproofing details complying with the Building Code of Australia.
- f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
- 84. All structural timber members subject to weather exposure shall have a durability class rating of 2 or better in accordance with Australian Standard 1684.2-1999 (National Timber Framing Code), or be preservative treated in accordance with Australian Standard 1604-1980 (Preservative Treatment for Sawn Timbers, Veneers and Plywood).
- 85. 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.
- 86. 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.

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

A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or Smoke alarms which:

- Smoke alarms which.
- a. 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
- b. are connected to the mains and have a standby power supply; and
- c. 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.

Item 3

88. 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.

K Lithgow Executive Planner M Prendergast Manager Development Assessment Services M Miocic Director Development & Regulation

Attachments: Site Location Plan Site Plan Elevations Shadow Diagrams Landscape Concept Plan

4 / 1 21 Banool Avenue, St Ives DA1394/03 21 October 2004

## **DEVELOPMENT APPLICATION**

SUMMARY SHEET

REPORT TITLE:	21 BANOOL AVENUE, ST IVES - DEMOLITION OF THE EXISTING DWELLING AND CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY
WARD:	St Ives
DEVELOPMENT APPLICATION N <sup>0</sup> :	1394/03
SUBJECT LAND:	21 Banool Avenue, St Ives
APPLICANT:	Mr and Mrs Sassin & Masterton
OWNER:	Mrs R Sassin
DESIGNER:	Residential Logistics P/L
PRESENT USE:	Residential - dwelling house
ZONING:	Residential 2C
HERITAGE:	No
PERMISSIBLE UNDER:	State Environmental Planning Policy No 53
COUNCIL'S POLICIES APPLICABLE:	KPSO, DCP 43 - Car Parking, DCP 40 - Waste Management, DCP 31 - Access, DCP 47 - Water Management, Dual Occupancy Code
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	SEPP 53; SEPP 55; SREP 20
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	29 October 2003
	Amended plans 17 August 2004
40 DAY PERIOD EXPIRED:	8 December 2003
PROPOSAL:	Demolition of the existing dwelling and construction of an attached dual occupancy
RECOMMENDATION:	Approval

DEVELOPMENT APPLICATION N<sup>O</sup> PREMISES: PROPOSAL: APPLICANT: OWNER: DESIGNER 1394/03 21 BANOOL AVENUE, ST IVES DEMOLITION OF THE EXISTING DWELLING AND CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY MR AND MRS SASSIN & MASTERTON MRS R SASSIN RESIDENTIAL LOGISTICS P/L

## PURPOSE FOR REPORT

To determine development application No 1394/03, which seeks consent for the construction of an attached dual occupancy.

#### EXECUTIVE SUMMARY

Issues:	Amended plans have been submitted to address concern regarding tree preservation and the impact of the double garage of dwelling B upon the streetscape.
Submissions:	No submissions received.
Land & Environment Court Appeal:	No appeal lodged.
Recommendation:	Approval

## HISTORY

#### Site history:

The site is used for residential purposes. An easement runs along the southern property boundary.

There is no other history relevant to the subject development application.

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

Council sent a letter to the applicant on 26 February 2004 which identified a number of significant design issues and requested additional information.

In response to these issues, amended plans were received on 30 March 2004. These plans were referred to Council's Landscape Officer on 31 March. The amended plans were not considered satisfactory and the applicant was notified of Council's continuing concerns on 15 April 2004.

Further revised plans were received on 5 May 2004. Neighbours were subsequently notified of the amended plans.

#### Item 4

A final set of revised plans was received on 17 August 2004. Neighbours were notified of the amended plans.

## THE SITE AND SURROUNDING AREA

#### The Site

Zoning:	Residential 2C
Visual Character Study Category:	1945-1968
Lot Number:	Y
DP Number:	378703
Area:	$1,045m^2$
Side of Street:	Eastern
Cross Fall:	North-east to south-west
Stormwater Drainage:	To Banool Avenue via on-site detention system
Heritage Affected:	No
Required Setback:	12 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	Yes

The subject site is located on the western side of Banool Avenue, between Bimburra Avenue and Mudies Road. The site is rectangular with a street frontage of 22.86 metres and a depth of 45.72 metres.

The site is occupied by a single storey weatherboard dwelling and detached single garage, located behind mature trees. A drainage easement runs along part of the southern (side) boundary.

#### **Surrounding development**

The surrounding development is predominantly single lot, detached dwellings.

## THE PROPOSAL

The proposal is to demolish the existing dwelling and erect a new attached dual occupancy development. Details of the proposed development are as follows:

#### **Dwelling A:**

Dwelling A is an attached two storey building which contains living and dining room, family, kitchen, laundry, water closet and double garage at ground floor level, with 4 bedrooms and 2 bathrooms at first floor level.

#### **Dwelling B:**

N:\041109-OMC-PR-02989-21 BANOOL AVENUE ST IVES.doc/kmarczan/3

Dwelling B is an attached two storey building which contains living and dining room, study, kitchen, laundry, water closet and double garage at ground floor level, with 4 bedrooms and 2 bathrooms at first floor level.

A new separate vehicular driveway and crossover providing access to Banool Avenue will be created for each dwelling. The garage for Dwelling B is now integrated into the body of the dwelling and its setback from the street has been increased by 3 metres to 12.56 metres.

The proposed attached dual occupancy is to be face brickwork with cream fascia/barge board and a tile roof. The proposed dwellings will have a total floor area, excluding garaging, of 384.52m<sup>2</sup>.

## Amended plans dated 30 March 2004

The initial amended plans modified the proposed development in the following ways:

- Relocation of the proposed driveway in order to retain the Turpentine trees located at the north-western (front yard) area of the site (refer tree No's 25, 35 & 36) and
- Inclusion of a skylight to the staircase of Dwelling B to improve solar access.

#### Amended plans dated 5 May 2004

The subsequent amended plans modified the proposed development in the following ways:

- Relocation of the family room of Dwelling B to allow a greater setback from the Turpentine tree located at the eastern section of the southern site boundary (refer tree No. 18),
- Inclusion of a retaining wall 1200mm from the northern boundary;
- Use of permeable paving for the proposed driveway.

## Amended plans dated 17 August 2004.

The final amended plans included the following modifications:

- Integration of the garage of Building B into the building;
- The provision of separate vehicular access to Building B; and
- The removal of permeable paving for the driveways as the built-upon area has been reduced from 44% to 40.5%.

## **CONSULTATION - COMMUNITY**

In accordance with Council's Notification Policy, owners of surrounding properties were given notice of the application on 7 November 2003. In response, no submissions were received.

Owners of surrounding properties were also notified of all the amended. In response, no submissions were received.

## **CONSULTATION - WITHIN COUNCIL**

N:\041109-OMC-PR-02989-21 BANOOL AVENUE ST IVES.doc/kmarczan/4

Item 4

#### Engineering

Council's Development Control Engineer has concluded that the proposal as amended may be supported, subject to the recommended engineering conditions. (**Refer No's36 to 44, 55 to 60 and 68 to 76**)

An issue was raised in relation to the proposed new driveway crossing. The pipe crossing would have to be extended to connect to the pit as shown on the stormwater drainage design. This matter has been addressed by **Condition 56** which requires the applicant to carry out infrastructure works in the public road.

#### Landscaping

The Landscape Development Officer supports the amended proposal, subject to recommended conditions. (Refer No's 29 to 35, 51 to 54 and 64 to 67)

An amended plan and specification of the proposed landscape works is required to include additional information including:

- Amend the driveway for dwelling B to preserve trees
- Details of proposed retaining walls to the northern side and rear of dwellings
- Continuous screen planting capable of achieving a minimum 3.0m height to the rear boundary
- Relocate the clothesline of dwelling A to allow screen planting
- Relocate the bin storage area outside the canopy of tree 2
- Amended drawing to be consistent with the approved drainage plan (**Refer to Condition No.51**).

An issue was raised in relation to the proximity of the new second driveway to the existing Turpentine tree 32. It has been recommended that the driveway be moved 1.5m further to the south so as to minimise the extent of impact on the root zone of the Turpentine. (**Refer Condition 51A**).

## STATUTORY PROVISIONS

## **State Environmental Planning Policy No 53**

COMPLIANCE TABLE			
Development standards	Proposed	Complies	
Allotment size (cl. 19(1)(a))			
• 400m <sup>2</sup> attached dual occupancy	$1,045m^2$	YES	
Floor-space ratio (cl. 19(1)(b))			
0.5:1 (max)	0.36:1	YES	
Car parking (cl. 20)			
• Dwelling A: 2 spaces	Dwelling A: 2 spaces	YES	
• Dwelling B: 2 spaces	Dwelling B: 2 spaces	YES	

## Site analysis (cl. 31):

A consent authority cannot approve a development unless it has taken into consideration a Site Analysis prepared in accordance with SEPP 53. The documentation submitted with the application is satisfactory in this regard and in relation to Schedule 5 of SEPP 53.

## Streetscape (cl. 32(a)):

The streetscape predominantly contains houses of one and two storeys on individual lots with generous garden areas. The proposed development is consistent with this and will present to the street as a single dwelling with a well articulated front façade.

To minimise streetscape impacts, the established tree plantings along the Banool Avenue frontage and nature strip will, in the most part, be retained as part of the proposed development.

## Visual and acoustic privacy (cl. 32(b)):

The visual privacy enjoyed by adjoining neighbours will be maintained. Views from the proposed first floor bedroom windows face towards the rear of the site (east) or the street front (west). All windows facing the adjoining properties at first floor level are associated with bathrooms. There are no first floor balconies proposed.

Visual privacy at ground floor level is protected by proposed screen planting (2-3 metres in height at maturity) and the existing/proposed 1.8m boundary fencing.

The proposal will provide a relatively quiet living environment, with small areas of paving within the rear courtyard areas. The internal arrangement of rooms and the construction method of the party wall will prevent undue noise between the adjoining dwellings.

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

The east-west orientation of the site offers some constraints in relation to solar access. Opportunities to maximise solar access have been incorporated into the proposed design with the inclusion of a skylight located over the stairwell of Dwelling B, the family room of Dwelling B and the dining room of Dwelling A having its orientation to the north.

The living room in Dwelling A has limited solar access, however, in comparison the family rooms and rear courtyards will have good solar access. The amended plans include a skylight and northern window to the family room in Dwelling B to improve natural lighting.

At first floor level, all bedroom windows face east or west. Whilst this provides visual privacy for the neighbouring properties, it is anticipated that some shading devices or heavy curtains will be required.

Ample opportunity for cross ventilation is provided in each dwelling.

Dwelling A achieves a NatHERS rating of 4 stars whilst Dwelling B achieves 3.5 stars.

The application includes shadow diagrams which demonstrate that some overshadowing of the adjoining property to the south (19 Banool Avenue) will occur. Morning shadows are predominantly over the garage and driveway area. Afternoon shadows cover part of the rear yard and garaging. Overall, the development will maintain reasonable solar access to the neighbouring property.

#### Stormwater (cl. 32(d)):

All stormwater from built-upon areas associated with the development will be collected and drained to Council's street drainage system, via an on-site detention systems located below the respective driveways.

#### Crime prevention (cl. 32(e)):

Both dwellings have pedestrian and vehicular access from Banool Avenue. The occupants of both dwellings will be able to observe people approaching their dwelling from the living room without the need to open the front door.

Direct resident access between the garage and dwelling is provided. Fencing will prevent access to the rear courtyard areas.

#### Accessibility (cl. 32(f)):

Safe pedestrian and bicycle links are available to local facilities from the subject property. Convenient access and parking is proposed for future residents of the development and on street parking is available in Banool Avenue.

## Waste management (cl. 32(g)):

There are suitable spaces available on the property for the storage of waste management containers.

## Visual bulk (cl. 32(g)):

The building form and height is reasonably, consistent and compatible with surrounding development. The bulk is lessened by the stepping back of first floor rooms from the ground floor and therefore providing a greater setback from the front boundary of the site. The overall height of the proposed development is well below the 8 metres limit rising to a maximum of 6.4 metres. All elevations are well articulated to provide visual interest.

## 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 Regional Environmental Planning No 20 - Hawkesbury-Nepean River

SREP 20 applies to the site and is aimed at protecting the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future lands uses are considered. SREP 20 requires consideration of matters including water quality, water quantity, flora and fauna, wetlands and heritage etc.

The proposed development meets the general matters for consideration of SREP 20. However, Clause 6(4) sets out strategies for water quantity whereby the reuse of water is encouraged where possible. As the propose is for a new development, it is recommended that rainwater tanks or similar be required to enable the reuse of stormwater for irrigation purposes. A condition to this effect is included in the recommendation (**Refer to Condition 60**).

COMPLIANCE TABLE		
Development standards	Proposed	Complies
Building height 8m (max)	Dwelling A: 5.7m	YES
	Dwelling B: 6.4m	YES
	The following information is not a statutory control. This information is provided for the benefit of the Councillors:	
	Height to roof ridge - Dwelling A: 8.0m Height to roof ridge - DwellingB: 8.0m	
	Height to eaves line - DwellingA: 5.4m Height to eaves line - Dwelling B: 6.0m	
Built-upon area 60% (max)	40.5%	YES
Notional built-upon area	Dwelling A: 38%	YES
-	Dwelling B: 43%	YES

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

## Aims and objectives for residential zones

The development: (i) provides satisfactory levels of solar access and privacy to surrounding properties; (ii) is of a bulk, scale and design, characteristic of the area; (iii) maintains adequate levels of soft landscaping; (iv) provides suitable egress/ingress for vehicles; and (v) maintains the landscape quality of the municipality. Consequently, the aims and objectives for residential development, as outlined by Schedule 9, have been satisfied.

## POLICY PROVISIONS

## **Development Control Plan No 40 - Waste Management**

The size of the site is sufficient to accommodate waste storage and recycling facilities associated with the site's future residential use.

#### Item 4

A Waste Management Plan has been submitted in relation to the demolition works and construction activities.

## **Development Control Plan 43 - Carparking**

The proposal complies with Development Control Plan No 43 which requires the provision of 4 parking spaces.

## **Council's Dual Occupancy Development Control Code**

COMPLIANCE TABLE		
Development controls	Proposed	Complies
4.2 Streetscape:		
<ul> <li>Roof pitch</li> <li>3m roof height - 2 storey (max)</li> </ul>	Dwelling A: 2.2m Dwelling B: 2.2m	YES YES
• Roof pitch 35° (max)	Dwelling A: 20° Dwelling B: 20°	YES
4.3 Visual and acoustic privation	cy:	
<ul> <li>Visual privacy</li> <li>Windows to habitable rooms set back 9m from neighbouring windows (min)</li> </ul>	Dwelling A: 9m Dwelling B: 4.0m	YES NO
4.4 Solar access and design for	or climate:	
<ul> <li>Solar access</li> <li>Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min)</li> </ul>	The family room to Dwelling B and the dining and kitchen areas to Dwelling A receive 3+ hours of solar access	YES
• Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min)	All neighbouring properties receive 3+ hours solar access	YES
<ul> <li>Energy efficiency</li> <li>3.5 star NatHERS Rating (min)</li> </ul>	Dwelling A: 4 stars Dwelling B: 3.5 stars	YES YES
4.7 Accessibility:		
<ul> <li>Vehicular access and car parking dimensions</li> <li>Garage - 3.1m x 5.4m</li> </ul>	Dwelling A: 5.8m x 6m	YES

N:\041109-OMC-PR-02989-21 BANOOL AVENUE ST IVES.doc/kmarczan/9

#### Item 4

#### 4 / 10 21 Banool Avenue, St Ives DA1394/03 21 October 2004

(min)	Dwelling B: 5.8m x 6m	YES
4.9 Visual bulk:		
Building setbacks		
• Front building line:		
Minimum setback: 12m	Dwelling A: 15m	YES
	Dwelling B: 12.56m	YES
• Side setback:		
Ground floor: 12% of	Dwelling A: Ground floor: 2m	NO
width> $20m = 2.7m$ (min)	Dwelling B: 1 <sup>st</sup> floor: 4.775m	YES
1 <sup>st</sup> floor: 15% of width>		
20  metres = 3.4 m (min)	Dwelling A: Ground floor: 2m	NO
	Dwelling B: 1 <sup>st</sup> floor: 3.775m	YES
• Rear setback: 3m (min)		
	Dwelling A: 14.5m	YES
	Dwelling B: 10.5m	
• No garages, tennis courts,	Both dwellings are located behind the	YES
swimming pools,	building line	
courtyard walls and other		
major built elements		
forward of the building		
line.		
Building form	D	
• Unrelieved wall length:	Dwelling A: 10m	YES
12m (max)	Dwelling B: 10.5m	YES
	Dwelling A: 19.2m	YES
• Total building length:	Dwelling B: 23.5m	YES
24m (max)	Dwennig B. 25.5m	1125
Built-upon area	40.5%	NO
• Total built upon area	40.5%	NO
(max): 40%		
• Notional built when and	Dwelling A: 38%	YES
• Notional built-upon area	Dwelling B: 43%	NO
Floor space ratio	D woming D. +570	110
• FSR (max): 0.5:1	0.36:1	YES
- 1 SIX (max), 0.3.1	0.001	
• 1 <sup>st</sup> floor - 40%	Dwelling A: 37%	YES
- 1 11001 +070	Dwelling B: 34.5%	YES
Height of buildings	0	
<ul> <li>Attached dual occ: 8m</li> </ul>	6.4m	YES
(max)	0.111	
(mux)		
• Building envelope: 45°	Dwelling A	YES
from horizontal at any	Dwelling B	YES
point 3m above boundary	····	

N:\041109-OMC-PR-02989-21 BANOOL AVENUE ST IVES.doc/kmarczan/10

#### Item 4

Cut and fill (building works)		
• Cut and fill: 900mm & Total 1800mm (max)	Dwelling A: 800mm (cut) TOTAL: 890	YES
	Dwelling B: 100mm (cut) & 855mm (fill) TOTAL: 955mm	YES
Section 5: Landscaping & Ope	n Space	
<b>Total soft landscaping:</b> 60% (min)	59.5%	NO
Notional soft landscaping	Dwelling A: 57% Dwelling B: 62%	NO YES
Tree retention and refurbishment		
• No of Trees: 7 (min)	>7 Trees	YES
Cut & fill (landscaping)		
Cut & Fill: 900mm & Total 1800mm	Dwelling A: Retaining wall 1.2m from northern boundary	YES
	Dwelling B: 220mm cut associated with family room relocated outside canopy line	YES
Open space provisions		
• Area: 100m2 or 2 x 75m2 areas (min)	Dwelling A: 179.3m <sup>2</sup> Dwelling B: 165m <sup>2</sup>	YES YES
• Min dimension 5m x 5m	Dwelling A: 12m x 14.5m x 11.7m	YES YES
(min)	Dwelling B: 11.1m x 10.5m	I LO
• Grade: 1 in 8 (max)	Grade: 1 in 10 (Dwelling A & B)	YES
• 50% receives 3+ hours	Dwelling A	YES
solar access (min)	Dwelling B	YES

## Visual privacy

The dining room window on the southern elevation of Dwelling B is approximately 4.0m from the window of the garage on the adjoining dwelling. Overlooking from this window is mitigated by the existing boundary fence and proposed screen planting which will consist of Syzygium leuhmanii attaining a height of 4-6 metres at maturity.

#### **Built upon area**

The proposed BUA for the total development is 40.5%. Based upon a notional subdivision of the site dividing the site down the common partywall Dwellings A and B have notional built-upon areas of 43% and 38%, respectively. As the non-compliance is minor (0.5%) no objection is raised.

#### Ground floor side setback

The minimum side setback adjacent to the garage of Dwelling A is 2m rather than 2.7m as required by the Code. Landscape planting is proposed along the northern boundary and the adjoining dwelling to the north is set back 5m from this boundary. There are no windows along the northern garage wall. As a consequence of these factors, visual privacy will not be reduced and as adequate building separation is achieved, this minor non-compliance is considered to be acceptable.

The minimum side setback adjacent to the garage/study of Dwelling B is 2m rather than 2.7m as required by the Code. The adjoining dwelling is set back behind the proposed garage and landscape planting attaining a height of 2 metres is proposed along the southern boundary to ensure visual privacy. Under the circumstances, this minor non-compliance is considered to be acceptable.

#### Soft landscaping

A total of 59.5% soft landscaping is proposed which is only fractionally less than the 60% requirement. This minor breach will not have a detrimental impact and is therefore considered acceptable.

## Section 94 Plan

The development attracts a Section 94 contribution of \$32,324.00 which is required to be paid by **Condition No 50**.

## 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. It is of a satisfactory shape and size to accommodate the proposed dual occupancy and to enable it to integrate with the surrounding development and provide a suitable level of amenity for future occupants.

Utility services are available to the site. There are no site hazards such as flooding or landslip and the site is not bushfire prone.

The site is not located within an area identified as being environmentally sensitive. The site has previously been cleared for residential development and there are no known species of threatened or endangered flora or fauna. The majority of significant trees on-site are to be retained.

The site is not listed as a heritage item and there are no heritage items in the vicinity.

## ANY SUBMISSIONS

No submissions have been received.

## **PUBLIC INTEREST**

The application proposes a more intensified use of residential land in an established residential area. The proposal is compatible with the existing environment and is consistent with the wider public interest as envisaged by SEPP 53.

## 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

That Development Application No 1394/04 for consent to the demolition of the existing dwelling and construction of an attached Dual Occupancy at 21 Banool Avenue, St Ives being Lot Y, DP378703 be approved for a period of not less than two (2) years from the date the Notice of Determination, subject to the following conditions:

#### GENERAL CONDITIONS

- 1. The development to be in accordance with Development Application No 1394/03 and Development Application plans prepared by Masterton Homes, reference number Job 63463 Sheets 1 and 2, dated 30 July 2004 and lodged with Council on 17 August 2004.
- 2. All building works shall comply with the Building Code of Australia.
- 3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
- 4. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
- 5. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
- Item 4
- 6. HOURS OF WORK: For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, buildozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

- 7. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
- 8. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
- 9. For the purpose of maintaining visual amenity, no permanent electricity supply poles are to be erected forward of the building setback without the prior Consent of Council. It is the onus of the applicant to consult with the authorised statutory electricity provider prior to construction commencing to ensure that direct connection to the building is possible. Details of any proposed permanent pole must be submitted to and approved by Council prior to installation.
- 10. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
- 11. 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.
- 12. 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.
- 13. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
- 14. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.

## Item 4

- 15. 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.
- 16. 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.
- 17. 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.

- 18. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
- 19. 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.
- 20. 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.
- 21. 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.

N:\041109-OMC-PR-02989-21 BANOOL AVENUE ST IVES.doc/kmarczan/15

- 22. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
- 23. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
- 24. 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.
- 25. 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.
- 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 development shall contribute water conservation through the installation of appropriate water conservation devices as follows:
  - Maximum 6/3 litre dual flush cisterns
  - Shower heads with reduced water flow devices
  - Garden watering systems (if installed) shall incorporate drip rather than spray mechanisms.
  - Garden beds should be mulched to retain water and reduce evaporation during extended dry periods.
- 28. So as to ensure safe egress and ingress within the development and to ensure the security of the occupants, adequate lighting is to be provided to all paths, accessways, parking areas and building entries. Spillage from any such lighting shall be contained within the property boundaries.
- 29. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy

spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

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

Separate written approval under Council's Tree Preservation Order is required prior to the of the following trees within the subject property:

Tree/Location Tree 28,*Melia azedarach* (White Cedar)/front boundary

- 30. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
- 31. 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.
- 32. 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
Syncarpia glomulifera (Turpentine)/tree 18 rear yard unit B	4.0m
Angophora costata /tree 14 rear yard dwelling B	4.0m
Syzigium sp. (Lilly Pilly)/adjacent property adjoining north boundar Syncarpia glomulifera (Turpentine)/tree 32 Council's road verge	ry 2.0m

33. No changes of level or excavation is to occur within the radius of the trunks of the following trees

Tree/Location	Radius From Trunk
Syncarpia glomulifera (Turpentine)/tree 18 rear yard unit B	4.0m
Angophora costata /tree 14	4.0m

34. 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

## Item 4

Syncarpia glomulifera (Turpentine) tree 24adjacent driveway	4.0m
Syncarpia glomulifera (Turpentine) tree 36 adjacent driveway	4.0m
Syzigium sp. (Lilly Pilly)/adjacent property adjoining north boundary	2.0m

- 35. 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.
- 36. 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. 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.
- 37. For stormwater control, an On-site Stormwater Detention System is to be provided in accordance with Council's Stormwater Management Manual. Unless otherwise approved, separate detention systems are to be provided for each residence.

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

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

- NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).
- NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.
- NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.
- NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.
- NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings

- 38. All 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.
- 39. 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.
- 40. To ensure structural stability, footings to be located adjacent to easements and/or Council drainage pipes shall be sited and constructed so that all footings are located outside of easement boundaries. The applicant shall refer to Council Plan 80-011 concerning such works. Footings must extend to at least the depth of the invert of the adjacent pipe within the easement unless the footings are to be placed on competent bedrock. If there is no pipe within the easement, a future depth of pipe of 1.6 metres is to be assumed for future pipe placement. If there is a Council pipe without an easement then a future easement width of 1.8m centred on the pipeline is to be adopted. If permanent excavation is proposed beneath the obvert of the pipe within the easement, suitable means to protect the excavation from seepage or other water flow from the pipe and trench, and means to retain the easement and associated pipe cover, are to be provided by the applicant at no cost to Council. Council accepts no liability for such seepage or water flows now or at any time in the future resulting from such
- 41. 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.
- 42. 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.
- 43. No retaining wall or fill is approved within Council's drainage easement.
- 44. 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

### Item 4

<u>www.sydneywater.com.au</u> 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.

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

45. 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.

- 46. 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).
- 47. 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.
- 48. 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.
- 49. To protect the amenity of the adjoining property, all fill under the slab is to be contained by dropped edge beams. Engineers details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
- 50. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLING IS CURRENTLY \$32,324.00. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm) Medium dwelling (75 - under 110 sqm) Large dwelling (110 - under 150sqm) Very Large dwelling (150sqm or more) New Lot 1.25 persons1.75 persons2.75 persons3.5 persons3.5 persons

51. 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 prepared by a Landscape Architect or qualified landscape designer and approved by the Principal Certifying Authority prior to release of the Construction Certificate.

The plan is to be amended to include the following amendments:

- Amend width of driveway for dwelling B to preserve trees
- Amend paving layout to dwelling B
- Proposed and existing levels and structures including proposed retaining walls to north side boundary and rear of dwellings.
- Continuous screen planting capable of achieving a minimum 3.0m height to rear boundary
- Relocate clothesline to dwelling A and provide screen planting to the boundary where clothesline formally located
- Relocate bin storage area outside of canopy of tree 2
- Amend drawing consistent with approved drainage plan
- 51A. To minimize the extent of impact on the root zone of tree 32 *Syncarpia glomulifera* (Turpentine) located on Council's road verge, the proposed driveway crossing for dwelling B is to be moved 1.5m further to the south. An amended plan of the driveway position consistent with this condition is to be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.
- 52. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
- 53. A CASH BOND/BANK GUARANTEE of \$4000 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.

54. A CASH BOND/BANK GUARANTEE of \$2000 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

Syncarpia glomulifera (Turpentine)/tree 18 rear yard dwelling B 5.0m

55. Prior to issue of the Construction Certificate footpath and driveway levels for any fully new, reconstructed or extended sections of 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.

- Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.
- Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

- 56. The Applicant must carry out the following infrastructure works in the Public Road:
  - a. Works to ensure continued functioning and capacity of Council's road drainage system, including construction of a new inlet structure if required.

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

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

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

- NOTE 1: A minimum of three (3) weeks will be required for assessment of Roads Act submissions. Early submission is highly recommended to avoid delays in obtaining a Construction Certificate.
- NOTE 2: An engineering assessment fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees.
- NOTE 3: Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.
- 57. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$5,000 bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development or at the end of any maintenance period stipulated by consent conditions upon approval by

Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b. The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- 58. Full design drawings of the proposed method of achieving the requirements for on site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/ hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.
- 59. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the National Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
  - NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).
  - NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.
  - NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.
- 60. For stormwater retention, provision of a 2000 litre rainwater tank for each dwelling, designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings shall be submitted and approved by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.
  - NOTE 1: The tank is to be located at or above existing natural ground level.
  - NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.
  - NOTE 3: The tank must not be located on the front facade of a dwelling.

- NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.
- NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.
- NOTE 6: The tank is to be a commercially manufactured tank designed for the use of water supply and to be installed in accordance with manufacturers specifications.
- NOTE 7: The tank is to be located above an available landscaped area so that the tank may be readily used for watering purposes.
- NOTE 8: The tank is to be fitted with a standard garden tap or similar which is to be clearly marked as not to be used for drinking purposes.
- NOTE 9: The tank is to be fitted with measures to prevent mosquito breeding.
- NOTE 10: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied
- NOTE 11: This requirement does not apply where the Applicant considers installation to be impractical.

## CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

- 61. 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.
- 62. 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.
- 63. To preserve and enhance the natural environment, the downslope side of the proposed construction area of the site is to be enclosed with a suitable erosion control barrier (e.g. straw bales or geofabric fence) along contour before any other work on the site commences.
- 64. 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 over trunk protective padding. 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 Trees 24, 36 adjacent proposed driveway at front boundary

65. 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 numbers correspond to landscape plan

Tree/Location	Fence Location or Radius in Metres
Trees 19 -20, 21, 22	Front northern boundary adjacent driveway place fence to edge of proposed driveway
Trees 8, 9, 10, 11, 12, 13, 15, 16	place fence parallel to and 3.0m from rear boundary
Tree 14 rear yard dwelling B	3.0m
Tree 18 rear yard dwelling B	3.0m
Trees 27, front boundary	3.0m
Trees 33, 32, 34, 35, Council's verge	1.5m
Tree 37 Council's verge	1.5m

- 66. 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.
- 67. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

# CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

- 68. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced hydraulic engineer or surveyor, prior to Occupation, that:
  - a. The works were carried out and completed in accordance with the approved plans.
  - b. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier prior to Occupation.

- 69. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed drawing issued by a suitably qualified and experienced engineer or surveyor is to be submitted to the Principal Certifying Authority prior to occupation or issue of an Occupation Certificate.
  - NOTE 1: The Certificate is to be with respect to compliance with:
    - a. The soundness of the structure.
    - b. The adequacy of the outlet control mechanism to achieve the discharge as specified.
    - c. The capacity of the detention storage as specified.
    - d. The size of the orifice or pipe control fitted.
    - e. The maximum depth of storage over the outlet control.
    - f. The adequate provision of a debris screen.
    - g. The inclusion of weepholes in the base of the outlet control pit.
    - h. The provision of an emergency overflow path.
  - NOTE 2: The certifying engineer and surveyor is to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.
  - NOTE 3: The Works-as-Executed drawing(s) are to include all relevant levels including:
    - Invert levels
    - surface or pavement levels
    - floor levels including adjacent property floor levels
    - maximum water surface level to be achieved in the storage zone
    - dimensions of basin(s), tank(s), pit(s), etc.
    - location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
    - storage volume(s) provided and supporting calculations
    - size of orifice(s)
- 70. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, the issue of the Occupation Certificate or the issue of a subdivision certificate.
- 71. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the onsite stormwater detention facilities on the property prior to occupation or the issue of an occupation or subdivision certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council. For existing Titles, the Positive

Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA.

- 72. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.
- 73. Prior to issue of an Occupation Certificate, any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.
- 74. 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).
- 75. Prior to issue of an Occupation Certificate (and at the completion of works), the applicant shall submit for approval by the Principal Certifying Authority (PCA) certification from a suitably qualified and experienced civil engineer, that:
  - a. Footings, and any required permanent excavation or drainage easement support, have been constructed in accordance with the conditions of this Consent relating to footings and excavation adjacent to drainage easements and/or drainage pipes, and
  - b. Footings allow for complete future excavation over the full width of the easement to a depth of the invert of the pipe, without the need to support or underpin the subject structure.

A copy of the certificate must also be provided to Council, attention Development Engineer, prior to issue of any Final Certificate.

76. Prior to issue of an Occupation Certificate (and at the completion of works), the applicant shall to the Principal Certifying Authority (PCA) certification from a registered surveyor that no structures or fill 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.

# **BUILDING CONDITIONS**

77. 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.
- 78. 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.
- 79. 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.

- 80. So as to ensure adequate fire separation, walls and floors separating occupancies are to be constructed in accordance with the requirements of Part 3.7.1 of the Building Code of Australia Housing Provisions. Details of the proposed method of compliance are to be submitted.
- 81. 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.

Item 4

82. 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.

- 83. 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.

G Bolton Team Leader, St Ives Ward M Prendergast Manager Development Assessment Services M Miocic Director Development & Regulation

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

5 / 1 8 Killeaton Street, St Ives DA244/04 25 October 2004

# **DEVELOPMENT APPLICATION**

**SUMMARY SHEET** 

REPORT TITLE:	8 KILLEATON STREET, ST IVES - SUBDIVISION OF ONE (1) ALLOTMENT TO CREATE TWO (2) ALLOTMENTS AND THE DEMOLITION OF THE DWELLING, OUTBUILDINGS, CARPORT AND SWIMMING POOL
WARD:	St Ives
DEVELOPMENT APPLICATION N <sup>0</sup> :	244/04
SUBJECT LAND:	8 Killeaton Street, St Ives
APPLICANT:	Mr E Song
OWNER:	Mr Q Y Song & Mrs M Feng
DESIGNER:	Mepstead & Associates - Surveyors
PRESENT USE:	Residential Dwelling , Outbuilding, Carport and Swimming Pool
ZONING:	Residential 2C
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Subdivision Code
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No.55 – Remediation of Land
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	12 March 2004
PROPOSAL:	Subdivision of one (1) allotment to create two (2) allotments and the demolition of the dwelling, outbuildings, carport and swimming pool
RECOMMENDATION:	Approval

Item 5

DEVELOPMENT APPLICATION N <sup>O</sup>	244/04
PREMISES:	8 KILLEATON STREET, ST IVES
PROPOSAL:	SUBDIVISION OF ONE (1) ALLOTMENT TO
	CREATE TWO (2) ALLOTMENTS AND THE
	DEMOLITION OF THE DWELLING,
	OUTBUILDINGS, CARPORT AND
	SWIMMING POOL
APPLICANT:	MR E SONG
OWNER:	MR Q Y SONG & MRS M FENG
DESIGNER	MEPSTEAD & ASSOCIATES - SURVEYORS

# PURPOSE FOR REPORT

To determine Development Application 244/04 which seeks consent for the subdivision of the site into two (2) torrens title allotments and the demolition of the existing dwelling, swimming pool and outbuildings.

# **EXECUTIVE SUMMARY**

Issues:	The proposal does not comply with Clause 58B(c)(ii) of the Ku-ring-gai Planning Scheme Ordinance – Minimum Site Width
Submissions:	Nil
Recommendation:	Approval

# HISTORY

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

# THE SITE AND SURROUNDING AREA

Visual Character Study Category:	1945-1968
Lot Number:	21
DP Number:	621407
Heritage Affected:	No
Bush Fire Prone Land:	Yes – Bushfire Zone Vegetation Buffer
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The site is rectangular in shape, is located on the southern side of Killeaton Street, St Ives and has an area of 2,468 square metres, with a street frontage of 25.92 metres and the eastern and western boundaries having lengths of 95.22 metres and 95.52 metres, respectively.

## ltem 5

Existing on the site is a single storey residence, carport, outbuildings and swimming pool, all of which are to be demolished.

## **Surrounding development**

The surrounding properties consist of a variety of single and two storey dwellings on varied allotment sizes. The subject site and surrounding properties are generally landscaped with mature gardens, including large canopy trees. There is no consistent subdivision pattern, with lot sizes varying from approximately 900 sqm to over 2000 sqm.

# THE PROPOSAL

The proposal is to Torrens title subdivide the site into two (2) allotments. Details of the proposed subdivision are as follows:

# **Proposed Lot 211 (Front) :**

Area	$932.2 \text{ m}^2$
Frontage to Killeaton Street	20.91 metres
Maximum Length – western boundary	46.8 metres
Minimum Length – eastern boundary	42.415 metres

## **Proposed Lot 212 (Rear-battle axe):**

Area	$1325 \text{ m}^2$ (excluding access handle)
	$1535 \text{ m}^2$ (including access handle)
Frontage to Killeaton Street	6 metres
Maximum Length – western boundary	95.52 metres
Minimum Length – eastern boundary	48.42 metres

The existing dwelling, carport, outbuildings and swimming pool are to be demolished leaving both allotments vacant.

The subdivision line between lots 211 and 212 is not straight. The reason for this is to comply with Clauses 43(3) & 58B(c) of the Ku-ring-gai Planning Scheme Ordinance which require a minimum lot size of 929  $m^2$  and 1300  $m^2$  for hatchet-shaped allotments.

# **CONSULTATION - COMMUNITY**

In accordance with Council's Notifications Policy, owners of surrounding properties were given notice of the application.

To date no comments or objections have been received. **CONSULTATION - WITHIN COUNCIL** 

## Engineering

N:\041109-OMC-PR-02998-8 KILLEATON STREET ST IVE.doc/pseitz/3

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

"This proposal seeks subdivision of 1 existing lot into 2 proposed lots. The applicant has submitted title document showing that the subject property does benefit from a drainage easement over downstream property(s) which drains to a natural watercourse. It is not apparent that whether there is a pipe within an easement and if there is one, whether it is in good repair. It is, however, considered appropriate that this investigation work could be covered by way of conditions prior to issue of the Construction Certificate. (**Refer Condition No.19**)

Under this proposed subdivision, the applicant is also required to construct a paved driveway within the access handle serving the proposed Lot, which would be covered by appropriate conditions. It is considered appropriate that all essential services including the paved driveway are provided at the time of subdivision so that any future developments particularly the rear allotment will have readily and proper access to the street. It is also to minimise any conflict/dispute between the two property owners should one of the created lot be sold in the future. Furthermore, it is considered that stormwater runoff from the proposed driveway shall be drained to the main drainage system via the on-site detention system of any future dwelling to be constructed.

In light of the above, the following engineering requirements will apply to this proposed Torrens subdivision, and will be conditioned accordingly:

1. Construction of the driveway within the access handle. The driveway crossing shall be 3.7 metres wide in order to comply with Council's Specifications. The driveway shall have a minimum width of 3.0 metres. Passing opportunities are also to be provided in accordance with AS2890.1 since the length exceeds 30 metres." (Refer Condition No.2)

# Landscaping

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

Proposed Lot 211 exhibits a gentle slope of 2 metres from its Killeaton Street to its southwestern (rear) boundary. It contains an in-ground swimming pool and majority of the existing asphalt driveway. It is proposed demolish the pool. Apart from 2 Quercus robur (English Oak) of 12 metres height, located close to its Killeaton Street boundary, there are no other constraints to the future development of the proposed lot.

All buildings and structures are proposed to be demolished from Lot 212. A proposed sewer and stormwater easement, extending alongside the lot's western boundary and diverting to the southwestern corner of proposed Lot 211, is to service both lots. Excavations for installation of sewer and stormwater lines within the easement to join the existing sewer line and drainage pit at the southwestern corner of the subject property, are to be bored within the specified radius of the trunks of the following 2 larger and 6 smaller trees:

- Eucalyptus pilularis (Blackbutt), of 25 metres height and healthy condition, is located adjacent to the property's western boundary and close to the stormwater drainage pit at the property's southwestern corner.
- Brachychiton acerifolius (Flame Tree), of 15 metres height and healthy condition, is located 2 metres northeast of the Eucalyptus pilularis (Blackbutt).
- *1 Pittosporum undulatum (Sweet Pittosporum), of 6 metres height and fair condition, is located adjacent to the southeastern corner of No. 6 Killeaton Street.*
- 1 Camellia japonica (Japanese Camellia), of 3 metres height and healthy condition, is located at the rear of the carport between the dwelling and the property's western boundary.
- 2 Eriobotrya japonica (Japanese Loquat), of 8 metres height and healthy condition, are located immediately north of the Brachychiton acerifolius (Flame Tree) and beneath the canopy of the Eucalyptus pilularis (Blackbutt).
- *1 Magnolia x soulangiana (Magnolia), of 3 metres height and healthy condition, is located close to the northern corner of the carport.*
- *1 Pittosporum undulatum (Sweet Pittosporum), of 4 metres height and healthy condition, is located at the rear of the carport between the dwelling and the property's western boundary.*

One Harpephyllum caffrum (Kaffir Plum), of 4 metres height and poor condition, are located adjacent to the property's western boundary. Removal of both trees for installation of the drainage line alongside the property's western boundary is supported.

# Bushfire considerations.

The subject property is located within the 100 metre wide buffer zone adjoining Category 1 bushfire-prone vegetation to its south and west. There is a sufficient protective buffer zone between the bushfire prone vegetation and the proposed future assets to both the southern and western directions.

# CONSULTATION – OUTSIDE COUNCIL

# **Rural Fire Services**

Under the provisions of section 91 of the Environmental Planning and Assessment Act 1979, the proposal is Integrated Development on the basis that a bush safety authority from the Commissioner of the NSW Rural Fire Service is required under the provisions of s.100B of the Rural Fires Act 1997, due to the proposal involving subdivision of bush fire prone land for residential purposes.

Accordingly, the development has been referred to the Commissioner of the NSW Rural Fire Service which commented, as follows:

"I refer to your letter dated 22 March 2004 seeking our General Terms of approval for the above integrated development proposal in relation to the requirement for a Bush Fire Safety Authority under section 100B of the Rural Fires Act 1997.

Based upon an assessment of the plans and documentation received for the proposal, the NSW Rural Fire Service is prepared to grant a Bush Fire Safety Authority, subject to conditions." (Refer to Condition No's 13 to 16).

# STATUTORY PROVISIONS

# State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 aims to set an approach for the remediation of contaminated land. Clause 7 of the SEPP requires Council to consider whether the land is likely to be contaminated prior to the determination of development consent.

The site is currently used for residential purposes. There are no records that indicate the site is contaminated nor would this be likely given the long established residential use of the site.

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

	<mark>≡</mark> MPLIANCE TABLE	
Development Standard	Proposals Numeric Compliance	Complies
Site Area: 2468m <sup>2</sup>		
Subdivision for dwelling houses		
• Site areas: $929m^2 \& 1300 m^2$	Lot 211: $932.2m^2$	YES
(min) respectively	Lot 212: $1325 \text{ m}^2$	YES
• Site width: 27.4 m (min) at a distance of 12.2 m from the street alignment	Lot 211: 20.91m	NO
• Access handle width: 4.6m (min) as measured at the street alignment	Lot 212: 5.005m	YES

bdivision for dwelling houses

Proposed Lot 211 does not comply with Clause 58B(c)(ii) of the KPSO in that the required site width of not less than 27.4 metres at a distance of 12.2 metres from the alignment is not achieved.

The applicant has submitted a SEPP 1 objection that is summarised as follows:

• The existing site has a frontage of 25.91m to Killeaton Street. The subdivision does not reduce the effective width of the site providing a 'right of carriageway' adjacent to the western boundary which benefits both allotments.

- The right of carriageway will allow for a single vehicular access point to Killeaton Street for both allotments. Therefore any new development does not need to establish two separate vehicular crossings.
- Killeaton Street has a wide street verge, approximately 11.5m, which allows for generous site distances in both directions to view passing traffic, to enable vehicles leaving the site a safe egress onto Killeaton Street. Similarly, the wide verge ensures that vehicles travelling along Killeaton Street can easily view vehicles leaving the sites fronting Killeaton Street. This verge also provides additional separation to any proposed residence to minimise adverse impacts from traffic noise.
- The verge on Killeaton Street allows for vehicles to pull over and slow down prior to entering individual premises. Similarly, this verge can be utilised to assist vehicles entering Killeaton Street.
- The proposed lot will have a width of 20.91m (with an effective width of 25.91m including the right of carriageway), which is considered to be sufficient to provide a dwelling that complies with Council's DCP 38 and the KPSO and will allow for vehicles to enter and leave the site in a forward direction.
- The proposed allotment width is compatible with the existing allotment widths within the immediate vicinity, ranging from approximately 17m to 30m.

With the exception of the non-compliance with the minimum width of proposed Lot 211, the proposal complies with the relevant controls contained within the Ku-ring-gai Planning Scheme Ordinance as they relate to the subdivision of land.

Clause 3 nominates the aims and objectives of SEPP1 and these are:

- Flexibility of planning controls, where strict compliance would be unreasonable or unnecessary.
- Hinder the attainment of the objectives in Section 5(a)(i) and (ii) of the Act.

The applicant's arguments when assessed against SEPP1 and the objectives for Residential Zones in Schedule 9 of the KPSO are supported for the following reasons:

- The existing site frontage is consistent with others in this portion of Killeaton Street and access from a joint driveway also follows the existing arrangements on other previously subdivided allotment.
- The proposed subdivision pattern for this site is compatible with others in this portion of Killeaton Street (refer to the site plan).

Therefore, the SEPP 1 objection is supported and compliance with the development standard is unreasonable and unnecessary and it is considered that granting of development consent would be consistent with the aims and objectives set out in Clause 3 of SEPP1.

# Aims and objectives for residential zones

The development: (i) maintains the amenity and environmental character of the residential zone; and (ii) allows for residential development compatible with the character of the area. Consequently, the aims of the KPSO have been satisfied.

Item 5

# POLICY PROVISIONS

# **Subdivision Code**

<b>MPLIANCE TABLE</b>		
Development Standard	Proposals Numeric Compliance	Complies
Site Area: 2468m <sup>2</sup>	Site Area: 2468m <sup>2</sup>	
Subdivision		
• Site area: 929 & 1300m <sup>2</sup> (min)	Lot 211:932.3m <sup>2</sup> Lot 212: 1325m <sup>2</sup>	YES YES
• Site width: 27.40m (min) at a distance of 12.2m from the street alignment	Lot 211:20.91m	NO
• Access handle width: 4.6m (min) as measured at the street alignment	Lot 212: 5.005m	YES



## • Site width

The proposed site width for Lot 211 is 20.91 metres in lieu of the required 27.4 metres as required by the KPSO. The existing allotment does not meet the minimum site width and the proposal does not diminish the site's potential subdivision.

# **Likely Impacts**

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

## Suitability of The Site

The site is of a sufficient size and shape to accommodate the proposed subdivision. It is not subject to hazards such as flooding, land slope or contamination and all necessary urban services are available.

# **Any Submissions**

No submissions have been received.

# **Public Interest**

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

# Any other Relevant Matters Considerations Not Already Addressed

The subdivision of the site into 2 allotments of land generates a Section 94 contribution of \$33,057.22. (**Refer to Condition No.20**).

# 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 Clause 58B(c)(ii) of the Kuring-gai Planning Scheme Ordinance rel 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 development consent would be consistent with the aims and objectives set out in Clause 3 of SEPP No.1.

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 244/04 is consistent with the aims of the Policy, grant development consent to DA 244/04 for Torrens title subdivision and demolition on land at 8 Killeaton Street St Ives, for a period of two (2) years from the date of the Notice of Determination subject to the following conditions:

- The development must be carried out in accordance with plans numbered 3912, Sheet 1, dated 1 March 2004, drawn by Mepstead & Associates Pty Ltd, and endorsed with Council's approval stamp, except where amended by the following conditions:
- 2. Construction of the driveway within the access handle. The driveway crossing shall be 3.7 metres wide in order to comply with Council's Specifications. The driveway shall have a minimum width of 3.0 metres. Passing opportunities are also to be provided in accordance with AS2890.1 since the length exceeds 30 metres;
- 3. If the Principal Certifying Authority is Council then the appropriate fees contained in Councils Schedule of Fees and Charges are payable to Council prior to issue of the approved plans. A re-inspection fee per visit may be charged where remedial work is unprepared at the requested time of inspection or where remedial work is unsatisfactory and a further inspection is requested. Engineering fees must be paid prior to the final approval of the works.
- 4. For stormwater control, a 150mm high kerb is to be provided for all paved areas including the proposed driveway. Stormwater runoff from all paved areas is to be connected to the main drainage system via on-site detention system of any future dwelling to be constructed.
- 5. Construction of the driveway within the access handle to the proposed Lot. The driveway crossing shall have a minimum width of 3.7 metres wide in order to comply with Council's Specification. The driveway is to have a minimum width of 3.0 metres and to be designed so

that it is structurally adequate for design vehicles up to a fully laden concrete truck. Passing opportunities must be provided in accordance with Australian Standard 2890.1 - 1993 "Off-street car parking.

- 6. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
- 7. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
- 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.
- 9. 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.
- 10. The following performance criteria must be addressed by future development of the lots:

Any dwelling shall be designed to minimise loss of trees:

- Any dwelling should aim to preserve those trees considered most worthy of retention in a tree report prepared by a qualified Arborist.
- The dwelling/s shall be designed to minimise excavation, however no excavation would be preferred.
- The design of the dwelling/s shall have regard for their bushland setting ie: the scale and form of the buildings, as well as colours, building materials and landscape design shall be appropriate for, and harmonize with, the bushland character of the area.
- 11. Excavation for the installation of SEWER AND STORMWATER within the specified radius of the trunk/s of the following tree/s shall be carried out using the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground surface at the tree/s to minimise damage to tree/s root system. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

Tree/Location

Radius From Trunk

Ordinary Meeting of Council - 9 November 2004 Item 5	5 / 11 8 Killeaton Street, St Ives DA244/04 25 October 2004
<i>Eucalyptus pilularis</i> (Blackbutt) Close to the property's southwestern corner.	7 metres
<i>Brachychiton acerifolius</i> (Flame Tree) Close to the property's southwestern corner.	4 metres
<i>Pittosporum undulatum</i> (Sweet Pittosporum) Adjacent to the southeastern corner of No. 6 Killeaton Street.	5 metres
<i>Camellia japonica</i> (Japanese Camellia) Adjacent to the property's western boundary and close to the rear of the carport.	3 metres
<i>Pittosporum undulatum</i> (Sweet Pittosporum) Adjacent to the property's western boundary and close to the rear of the carport.	3 metres
<i>Magnolia x soulangiana</i> (Magnolia) Adjacent to the northern corner of the carport.	2 metres

- 12. 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.
- Any future development application lodged for this subdivision under section 79BA of the EP 13. & A Act will be subject to the requirements set out in Planning for Bushfire Protection, 2001.
- 14. Access is to comply with Section 4.3 of Planning for Bushfire Protection 2001. This clause is to apply to the area within the development and may also include roads immediately abutting the development site.
- 15. Roofing to both the existing and proposed development shall be gutterless or have leafless guttering and valleys which are to be screened to prevent the build up of flammable material.
- Both the existing and proposed new lot shall be managed as an 'Inner Protection Area' as 16. outlined within section 4.2.2 in Planning for Bushfire Protection 2001.

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

Submission for approval by the Principal Certifying Authority prior to issue of the 17. Construction Certificate of design documentation for the driveway to the proposed new Lot. The designing engineer is to certify that the proposed driveway is structurally adequate for design vehicles up to a fully laden concrete truck, and complies with Australian Standard 2890.1 – 1993 "Off-street car parking" in terms of passing opportunities, ramp grades and driveway width etc.

## ltem 5

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

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

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

- Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.
- Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level (if applicable) of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.
- 19. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), certification from a suitably qualified and experienced civil/hydraulic engineer that:
  - a. The existing pipes within the interallotment drainage easement system to be utilised, not to be reconstructed, are in satisfactory condition and
  - b. The existing pipes to be utilised have hydraulic capacity to carry design flowrates and/or detention system overflows (where detention systems are to be provided) from the subject property as far as the approved point of discharge to the public drainage system.

Where it is found that the existing pipes are in disrepair or will have insufficient hydraulic capacity to carry additional flows from the approved development the Applicant shall submit full design documentation for an upgraded interallotment drainage system from the subject property to the approved point of discharge to the public drainage system. This design documentation shall be approved by the Principal Certifying Authority (PCA), prior to issue of the Construction Certificate. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with in accordance with Council's Water Management DCP 47 (available on Councils website and at Customer Services) and the Plumbing and Drainage Code (AS3500). New pipes within the downstream easement drainage system must be sized to have adequate capacity to carry design flowrates,

or detention system overflows where detention systems are to be provided, from the subject property. The following details must be included:

- a. Plan view of interallotment system to scale showing dimensions, location and reduced levels of all pits, grates, pipe inverts, flushing facilities and exact point of discharge,
- b. The contributing catchment calculations and supporting pipe sizing information,
- c. Longitudinal section showing existing ground levels and proposed pipe invert levels, grades and flow capacities,
- d. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system,
- e. Means to preserve the root systems of trees within seven (7) metres of the drainage system.
- 20. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLINGS IS CURRENTLY \$33,057.22. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm)

1.25 persons

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

## CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

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

Tree/Location	Radius in Metres
<i>Eucalyptus pilularis</i> (Blackbutt) Close to the property's southwestern corner.	8 metres
<i>Brachychiton acerifolius</i> (Flame Tree) Close to the property's southwestern corner.	5 metres
Acer palmatum (Japanese Maple) Near the property's central rear boundary.	5 metres
Syncarpia glomulifera (Turpentine) Close to the property's central rear boundary.	4 metres

22. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s excluding that area of the existing DWELLING and BRICK SHED 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
2 Syncarpia glomulifera (Turpentine) Near the property's central rear boundary.	5 metres
2 Syncarpia glomulifera (Turpentine) Adjacent to and near the southern end of the property's eastern boundary.	4 metres
<i>Franklinia axillaris</i> (Gordonia) Between the brick shed and the dwelling's southeastern corner.	4 metres

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

## Item 5

- 23. The linen plan release fees set out in Councils adopted Schedule of Fees and Charges is payable to Council, prior to issue of the Subdivision Certificate.
- 24. Construction of the driveway access to the proposed new Lot is to be supervised and upon completion certified by the designing engineer that the works have been constructed in accordance with the approved plans. Certification is to be provided to the Principal Certifying Authority prior to issue of a Subdivision Certificate.
- 25. For endorsement of the linen plan/issue of the subdivision certificate, the applicant shall submit an original plan of subdivision plus six (6) copies, suitable for endorsement by Council. The following details **must** be submitted with the plan of subdivision and copies:
  - a. Plan of Subdivision Lodgement Form, available at Council's Customer Services Counter;
  - b. The endorsement fee current at the time of lodgement;
  - c. The 88B Instruments plus six (6) copies;
  - d. Compliance Certificate issued by the Accredited Certifier for all subdivision works;
  - e. A copy of all works-as-executed plans required under the consent;
  - f. All Surveyor's and/or Consulting Engineer's certification(s) required under this consent;
  - g. The Section 73 (Sydney Water) Compliance Certificate for the subdivision.

Council will check the consent conditions on the subdivision. Failure to submit the required information will delay endorsement of the linen plan, and may require payment of rechecking fees.

- Note 1: Plans of subdivision and copies must not be folded.
- Note 2: Council will not accept bonds in lieu of completing subdivision works.
- 26. The submission of an instrument under Section 88B of the Conveyancing Act with the Plan of Subdivision, plus five (6) copies, creating any required easements, rights-of-carriageway, positive covenants, restrictions etc, with Ku-ring-gai Council being named as the authority whose consent is required to release, vary or modify the same.
- 27. Creation of burdens including drainage easements, service easements and rights-ofcarriageway as required. A registered surveyor is to certify prior to the issue of the subdivision certificate that all interallotment drainage lines, services or driveways are fully contained within the proposed burdens and/or that future provision of such are fully covered by the proposed burdens. Alternatively if the surveyor is of the opinion that no interallotment easements or rights-of-carriageway are required then certification to this effect from the surveyor is to be submitted.
- 28. Creation of suitable drainage easements with minimum widths in accordance with Council's Stormwater Management Plan DCP47 over all of the inter-allotment and Council drainage systems.

## Item 5

- 29. Prior to release of the linen plan/issue of the subdivision certificate, the Section 73 Sydney Water compliance certificate **which refers to the subdivision application** must be obtained and submitted to the Council.
- 30. The provision of separate underground electricity, gas, telstra, sewer and water services, or appropriate conduits for the same, to each allotment. The certifier to verify that these services are provided to every lot prior to the issue of the Subdivision Certificate. The provision of these measures is to be certified by a consulting engineer or a registered surveyor prior to the issue of a Subdivision Certificate.
- 31. Prior to release of the linen plan/issue of the subdivision certificate, the following works must be completed:
  - a. Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
  - b. Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks. Full reinstatement of these sections to footway, and/or turfed verge and/or kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to marrying of levels and materials.
  - c. Any sections of damaged grass verge are to be replaced with a non-friable turf of native variety to match existing.

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

B Banning Special Projects

M Prendergast Manager Development Assessment Services M Miocic Director Development & Regulation

Attachments: Subdivision Plan Location Plan

S02500 29 October 2004

# REPORT ON CATCHMENT ANALYSIS FOR COWAN CREEK AND MIDDLE HARBOUR CATCHMENTS

# **EXECUTIVE SUMMARY**

PURPOSE OF REPORT:	To report findings of the analysis and planning for the Cowan Creek and Middle Harbour catchments.
BACKGROUND:	A requirement of the Ku-ring-gai Management Plan was to undertake a catchment analysis to develop Local Catchment Plans for Cowan and Middle Harbour and report to Council by May 2003. This timeframe for completion was extended to August 2003. Two consultants commenced Plans in December 2002, which were completed in July 2004.
COMMENTS:	Comprehensive modelling of the drainage system has enabled Council to determine the catchment behaviour in terms of water quantity and quality impacts across a range of rainfall events. The studies will enable Council to undertake further modeling to assist in the development of works program and policy review.
	The studies have assisted in the development of a prioritised works program to address flooding and environmental impacts.
<b>RECOMMENDATION:</b>	That Council receives and notes the report and findings of the Middle Harbour and Cowan Catchment Local Catchment Plans.

ltem 6

# **PURPOSE OF REPORT**

To report findings of the analysis and planning for the Cowan Creek and Middle Harbour catchments.

# BACKGROUND

A report on Catchment Management for assessment of Tenders was presented at a Council meeting on 3 December 2002 and resolved in part:

- D. Cowan Creek and Middle Harbour local catchment plans be undertaken by Robinson GRC and Perrens Consulting respectively.
- *E.* The local catchment plans for Cowan Creek and Middle Harbour be commissioned mid December 2002 and the time frame for completion be extended to August 2003.
- F. The preparation of local catchment plans for the Lane Cove River catchment commence by November 2003 subject to the satisfactory completion, revision and assessment of the Cowan and Middle Harbour Catchment and be completed by June 2004 subject to funding being made available.
- *G.* The consultant to undertake the Lane Cove catchment be appointed by a selective tender process.

Work on the studies commenced in December 2002. WP Brown & Partners with Boyden & Partners undertook the Cowan Creek catchment analysis and Hughes Trueman undertook the Middle Harbour catchment analysis. Following acceptance of the tenders, Robinson GRC merged with WP Brown & Partners and Perrens Consultants merged with Hughes Trueman. Locations of sub-catchments for Cowan Creek are attached in **Attachment 1**, and for Middle Harbour in **Attachment 2** 

Joint meetings where held with both consultants in order to work collaboratively to assess the capacity deficiencies and water quality implications. Six stages of work were identified:

- Stage 1. Establish the current situation.
- Stage 2. Hydrological and hydraulic modeling.
- Stage 3. Quality modeling.
- Stage 4. Catchment behaviour and integration of modeling data.
- Stage 5. Preliminary draft report.
- Stage 6. Prioritisation and final report.

A progress report was provided on 23 September 2003 to inform Council on the status, difficulties, and preliminary outcomes from the quantity and quality modeling.

Following completion of the modeling and evaluation of the two catchments, a presentation of the findings was held for Councillors on 28th June 2004. Since that time the consultants have been working on refining the priority ranking system and determining the concept for the high priority works to enable estimated costs to be determined.
#### Item 6

#### S02500 29 October 2004

This report contains further information including an overview of the main characteristics of the drainage systems, the assessment methodology, findings and problem areas, as well as conceptual solutions and costs.

# COMMENTS

To enable comparison between and within catchments both consultants were required to work collaboratively during the model set-up stages to ensure model coefficients and data entry were identical.

The development of quantity and quality analysis is carried out using computer analysis models for each sub-catchment are a critical outcome of this project. *DRAINS* software model was used for modeling stormwater quantity. Design storms of 5, 10, 20 and 100 year Average Recurrence Interval (ARI) as well as the Probable Maximum Precipitation storm event (PMP) were run. These design storms are based on Council's Rainfall Intensity Frequency Duration Data derived from 1987 edition of *Australian Rainfall & Runoff, (AR&R)*. The Model for Stormwater Improvement Conceptualisation *or MUSIC* was used for modeling stormwater quality. *MUSIC* uses relationships between soil and water, rainfall and evapotranspiration to represent the hydrology of the catchment. Pollutant loads are then generated from this according to the land use types.

From the development of the models, the main characteristics of the drainage systems were determined as summarised in Table 1.0.

	Middle Harbour	Cowan Creek (1)
Catchment area	2,358ha	2,465ha
Area of urban residential	1556 ha (or 66%)	740 ha (or 30%) (2)
Total length of piped drainage	98 km	70 km
Total length of open channel and creek	50 km	N/A (3)
Drainage nodes and pits:		
• Total in drainage system	4,484	2,690
• Total modeled in <i>DRAINS</i>	4,042	N/A
• Total sealed pits	775	N/A

#### Table 1.0

Notes:

(1) excludes the analysis of the Branch of Cowan Creek.

(2) balance of area comprises protected bushland of the Ku-ring-gai Chase National Park

(3) not calculated due to significant length of creeks and open channels draining to Cowan Creek in Ku-ring-gai Chase National Park

#### Assessment methodology

Tabular output from computer modeling for the 5, 10, 20 and 100 year ARI design storms, have been utilised by both consultants in a variety of ways to assess the adequacy of the drainage system and to identify areas where possible overland flow and flooding conditions may warrant works.

#### S02500 29 October 2004

However, consultants differed in their approach to the identification of flooding problems and documentation.

For Middle Harbour Local Catchment Plans, particular aspects of overland flow that may have been problematic were analysed with detailed documentation for each sub-catchment provided for the following areas:

- Overland flow downstream of each pit and direction of flow (across and along the road, or into/out of private property). Flows are summarized in terms of flow ranges for each ARI and the PMF,
- Assessment of flood hazard for flows down roads, and
- Assessment of flood hazard associated with ponding.

Hazard rating for each ARI storm was assessed based on the combined effects of depth and velocity as shown in NSW *Floodplain Management Manual* (2001) and is useful from a risk management perspective.

For the Cowan Creek LCP's, assessment using overland flow rates are minimal in comparison and have been reference directly in the discussion of the identified problem areas.

#### Findings

A copy of the executive summary by Consultants for Cowan Creek and Middle Harbour forms **Attachment 3**. Statistics on pipe capacity and Pollutant loads have been consolidated for each main sub-catchment in **Attachment 4** and **Attachment 5** respectively.

Critical findings from the report include;

- Compliance of the pipe system with Councils design capacity requirements of 20 year ARI or greater of 57% 79% for Middle Harbour, and 64% 81% for Cowan Creek sub-catchments.
- 70% and 55% of inlet pits in Middle Harbour and Cowan Creek catchments respectively, have inadequate capacity to drain flows from the 5 year or 20 year ARI design storms.

Due to the relative homogeneous nature of the landuse throughout the catchment there are no highly identifiable pollution "hotspots". However, because of the sensitivity of Hawkesbury Sandstone vegetation to phosphorus, and continual wetting, the majority of drains discharging to bushland will have an effect.

#### **Problem areas**

For Middle Harbour catchments, problem areas have been identified where *DRAINS* modeling indicates peak overland flows greater than  $2 \text{ m}^3/\text{s}$  in a 5 year ARI storm event, for Rocky, Gordon and Moores Creeks and between 1-  $1.2 \text{ m}^3/\text{s}$  in a 5 year ARI storm event for smaller subcatchments. For Cowan Creek problem areas have been identified where *DRAINS* modeling indicates peak overland flows greater than  $2 \text{ m}^3/\text{s}$  in a 10 year ARI storm event.

#### Key findings include;

#### For Middle Harbour Catchment

- 38 locations where overland flows are rated as having a high hazard in a 5 year ARI storm,
- 93 identified problem areas, ranked, then shortlisted to 20 locations,
- 14 (out of 20) feasible schemes, with costs estimates ranging between \$23,000 and \$407,000, and total cost of \$1.61 million (corresponding to the 14 solutions),
- An additional 2,800 inlets pits that warrant further consideration for upgrading, at an estimated total cost of \$5.04 million (based on standard construction rates),
- Water quality modeling identified 47 of the 113 bushland outlets, have a significant impact in terms of nutrient loads and there are 11 potential sites that stormwater harvesting could be utilized, and.
- A total Gross Pollutant load of 126.2 tonnes discharging in the receiving waters.

#### For Cowan Creek Catchment

- 73 identified problem areas,
- 72 flood remedies. Identified problem areas and remedies are identical as some problem areas had no feasible solution and multiple remedies have also been determined for problem areas,
- Costs estimates for remedies ranging from \$6,000 and \$428,000, and total cost ranging from a minimum of \$6.2 million to \$7.0 million,
- An estimated 1,480 inlets pits that warrant further consideration for upgrading, at an estimated total cost \$2.66 million (based on standard construction rates),
- Priority listing of 39 sites for stormwater treatment devices, and
- A total Gross Pollutant loads of 117.3 tonnnes discharging into the receiving waters.

#### **Integration issues**

As part of the brief, consultants were requested to identify projects that addressed both flooding and environmental solutions. They primarily fall into the following categories;

- Stormwater harvesting
- Swales
- bioretention systems
- Stormwater re-use for irrigation

# CONSULTATION

Council staff met with both Consultants jointly to work collaboratively in developing protocols and parameters to enable consistency in the modeling approach.

S02500 29 October 2004

# FINANCIAL CONSIDERATIONS

This project has identified a number of issues Council needs to address as part of its catchment and drainage management programs. A priority list and costing was developed into the 2004/05-2008/09 program for drainage capital works.

# CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Technical Services and Open space have mutually worked on this project comprising report assessment and consultant feedback and meetings.

### SUMMARY

In July 2004, two consultants completed a catchment analysis to develop Local Catchment Plans for Cowan and Middle Harbour following a requirement of the 2002/06 Ku-ring-gai Management Plan.

A total of eleven (11) *DRAINS* models, defining the piped drainage system, and eleven (11) *MUSIC* models describing generation of pollutants in stormwater have been developed to provide the basis for Local Catchment Plans that can be used for future planning to manage flooding and water quality issues.

Whilst a copy of each summary by Consultants for Cowan Creek and Middle Harbour are attached in **Attachment 3**, key statistics from the main report reveal flooding risks and hazards for the current system, as well as indicative amounts of pollutant loads and concentrations.

### RECOMMENDATION

That Council receives and notes the report.

Ian Taylor <b>Manager Supp</b>	oort Services	Greg Piconi Director Technical Services
Peter Davies Manager Catc	hment and Sustainability	Steven Head Director Open Space
Attachments:	<ol> <li>Sub-Catchment Plan for</li> <li>Sub-Catchment Plan for</li> <li>Executive Summaries.</li> </ol>	

- 4 Pipe capacities for Middle Harbour and Cowan Creek catchments.
- 5 Pollutant export loads for Middle Harbour and Cowan Creek catchments.

S03651 11 October 2004

# TENDER FOR LANE COVE SUB CATCHMENT ANALYSIS

# **EXECUTIVE SUMMARY**

PURPOSE OF REPORT:	To seek Council's approval to appoint two consultants to undertake the sub-catchment stormwater analysis and planning for the Lane Cove catchment.
BACKGROUND:	Catchment analysis of Cowan and Middle Harbour Creek was completed in July 2004. Following this the Management Plan 2004-2008 requires the preparation of the final Local Catchment Plan (LCP) for Lane Cove by March 2005.
COMMENTS:	An open tender process was used to seek responses for the preparation of the LCP. A total of 9 conforming tenders were received, and have been assessed by the Tender Review Panel. Assessment was based upon the weighted and non-weighted criteria, under the conditions of Tender and consideration for benefit and value.
	Two consultants were identified as able to provide the optimum value and meet requirements of the tender in respect of methodology, output and timeframe.
<b>RECOMMENDATION:</b>	That Council adopts recommendations A to E as printed in the report.

S03651 11 October 2004

# **PURPOSE OF REPORT**

To seek Council's approval to appoint two consultants to undertake the sub-catchment stormwater analysis and planning for the Lane Cove catchment.

# BACKGROUND

In 2003 Council commenced a process of preparing Local Catchment Plans (LCP's) across the Ku-ring-gai Local Government Area. These plans were to provide the next generation of stormwater planning documents that would address multiple objectives including the identification of flooding issues and address the quality and impacts of runoff affecting downstream environments.

Cowan and Middle Harbour catchments were selected to commence this process in 2003 following an open tender process and decision by Council. These plans were completed in July 2004. A requirement of the Ku-ring-gai Council Management Plan 2004-2008 is to finalise analysis for the Lane Cove catchment and report the findings to Council by March 2005.

As part of the development of a brief to undertake the Lane Cove LCP's, consideration was given to the successful outcomes from Middle Harbour and Cowan LCP's to provide for greater integration between managing stormwater quality, quantity and achieving environmental protection.

Tenders were called on 14 August 2004 and closed on 14 September 2004. To enable completion of tasks and report to Council by March 2005, the tender divided the Lane Cove River catchment into two areas and requested tenderers to submit quotes for each region separately as shown in **Attachment 1**. The two regions comprise:

- Northern: Lane Cove 1, 2 & 3, Avondale, Fox Valley and Coups Creeks.
- Southern: Lane Cove 4 & 5, Blackbutt, Lady Game, Lofberg Quarry and Blue Gum Creeks

Accepted Tenders were received from the following 9 companies:

- 1. Storm consulting Pty Ltd
- 2. Webb, McKeown & Associates Pty Ltd
- 3. Gutteridge Haskins Davey Pty Ltd
- 4. URS Australia Pty Ltd
- 5. SMEC Australia Pty Ltd
- 6. Sinclair Knight Merz
- 7. Cardno Willing Pty Ltd
- 8. Brown Consulting (NSW) Pty Ltd
- 9. Woodlot & Wetlands Pty Ltd

Two tenders were not submitted in accordance with the tender specifications. The Bowden Group tender was received after the nominated closing time. The tender by Dincel & Associates was not lodged in Council's Tender Box. Based on advice from Council's Governance Officer, these tenders were deemed not to comply with the instructions and therefore were invalid.

# COMMENTS

The scope of works undertaken for this tender is to have developed Local Catchment Plans (LCP's) for each of the 12 sub-catchments.

The Tender set four mandatory key tasks:

- To model, analyse and assess the hydrological and hydraulic capacity of the existing stormwater drainage system using *DRAINS*,
- Model, analyse and assess the quality of stormwater runoff from the catchment, using *MUSIC*,
- Develop an integrated catchment management program that draws on the elements of water sensitive urban design, and
- Develop a prioritised works program that includes conceptual designs for projects demonstrating the least cost and greatest benefit.

The Tender also offered other elements that consultants may seek to explore, and include:

- Whole of water cycle management,
- Stormwater harvesting for non-potable uses such as irrigation,
- Condition assessment and measures to address drainage into natural creek systems, and
- Benefits and nature of private and public on-site detention and retention.

Under the Conditions of Tender, the tenders were assessed based on the following criteria:

#### Weighted Criteria

- i. Schedule of rates for variations (5%)
- ii. Organisational capacity to fulfill the Contract:
  - Relevant experience (previous work of this type) (15%)
  - Track record (general reputation for work competence) (10%)
  - Technical skills (people, systems, specific abilities) (10%)
- iii. Response to planning and analysis:
  - Appreciation of key issues, experience in analytical techniques, modelling software, appreciation of level of detail for study (25%).
- iv. Implementation plan time performance (10%)
- v Price (25%)

#### Non-Weighted Criteria

- i Undertaking for copyright,
- ii Declarations,
- iii OH&S information,
- iv Demonstrated understanding and experience in identifying, designing and/or constructing water sensitive urban design projects,
- v Demonstrated experience in developing innovative and appropriate strategies to improve stormwater quantity and quality management, and
- vi Innovative reporting outcomes.

#### ltem 7

Non-weighted criteria are either rated satisfactory or unsatisfactory

All nine (9) conforming tenders received, comply with the requirements in the Tender forms, Conditions of Tender and User Specification and have satisfactorily addressed copyright and declarations required.

The Tender Evaluation Committee comprising a total of three staff from Technical Services and Open Space has evaluated the tenders. Confidential **Attachment 2** provides a summary table of the rankings based on the weighted criteria, along with recommendation and assessment comments. From this ranking process a short list of three tenderers was determined.

- URS Australia Pty Ltd (URS)
- Cardno Willing Pty Ltd (Cardno Willing)
- Webb, McKeown & Associates Pty Ltd (Webb McKeown)

The tender received from Cardno Willing for the northern region and URS for the Southern region are the preferred tenderers based on the overall rankings.

In regard to capacity to fulfill the contract, these tenderers are considered suitable in regard to organisational stability and continuity given their experience and track record in the industry.

All three tenderers have provided a timetable to complete the tasks and project that demonstrates the ability to comply with the meetings and timetable from October 2004 to February 2005. Upon awarding the contract, the consultants will be requested to provide further breakdown of the timetable for tasks for monitoring and evaluation purposes.

# CONSULTATION

Open tenders were invited by advertisement in the Sydney Morning Herald on the 14 and 17 August with the documents made freely available on request and provided in electronic format on compact disk.

# FINANCIAL CONSIDERATIONS

The Ku-ring-gai Council Management Plan 2004-2008 has allocated \$100,000 for catchment analysis with \$79,500 available from 2003/04 carry forwards. The combined value of the lump sum tenders is below this amount including an allowance for 10% contingency for variations.

# CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Technical Services and Open Space have jointly undertaken preparation of the tender documentation, incorporating improvements through revision and assessment of the Cowan and Middle Harbour local Catchment Plans as well as assessment of the tender for Lane Cove LCP's.

7/5

## SUMMARY

In 2003, Cowan and Middle Harbour catchments were selected to commence a process of preparing Local Catchment Plans across the Ku-ring-gai Local Government Area. These plans have been completed in July 2004. A requirement of the Management Plan 2004-2008 is to finalise analysis for the Lane Cove catchment and report the findings to Council by March 2005. This will complete the analysis of the entire Ku-ring-gai catchment area.

Following an open tender process, nine conforming tenders were evaluated for the preparation of the Local Catchment Plans for the Lane Cove Creek. These were shortlisted to three tenders using a value and cost based determination. Cardno Willing Pty Ltd is recommended to undertake the analysis for the northern region and URS Australia Pty Ltd for the southern region.

# RECOMMENDATION

- A. That the tender submitted by Cardno Willing Pty Ltd for the northern region and URS Australia Pty Ltd for the southern region for the stormwater analysis and planning of the Lane Cove catchment analysis be accepted.
- B. That the unsuccessful tenderers be informed of Council's decision.
- C. That the Mayor and General Manager be delegated authority to sign the contract forms and affix the seal of Council.
- D. That authority be delegated to the General Manager for any variations to the Contract and negotiations.
- E. That a further report be brought back to Council by December on the preliminary findings for the Northern and Southern region of the Lane Cove Catchment.

Ian Taylor Manager Support Services Peter Davies Manager Sustainability and Catchment Management

Greg Piconi Director Technical Services

Steven Head **Director Open Space** 

# Attachments:Attachment 1 – Map of Lane Cove CatchmentAttachment 2 – Evaluation of Tenders and amounts -CONFIDENTIAL

S02722 12 October 2004

# INVESTMENT CASH FLOW & LOAN LIABILITY AS AT 30 SEPTEMBER 2004

# **EXECUTIVE SUMMARY**

PURPOSE OF REPORT:	To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for September 2004.
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 October 2004 (Minute No. 480).
COMMENTS:	The Reserve Bank of Australia (RBA) again left the official cash rate at 5.25% for the month of September.
RECOMMENDATION:	That the summary of investments, daily cash flows and loan liability for September 2004 be received and noted.

# **PURPOSE OF REPORT**

To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for September 2004.

# 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 October 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 Councils, with the advice of Grove Financial Services Pty Limited.

# COMMENTS

During the month of September Council's cash decreased by \$400,000 and gross capital appreciation on Council's investments was \$112,600.

Council's total investment portfolio at the end of September 2004 is \$22,076,500. This compares to an opening balance of \$17,271,200 as at 1 July 2004.

Council's General Fund interest on investments for September year-to-date is \$251,500. This compares favourably to the year-to-date budget of \$206,300.

Council's total debt as at 30 September 2004 is \$11,465,800. This compares to a total debt of \$11,850,000 as at 1 July 2004.

#### PERFORMANCE MEASURMENT

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 UBSWA Bank Bill Index

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

#### Allocation of Surplus Funds

This represents the mix or allocation of surplus funds with each of Council's Fund Managers.

Council's investment policy requires that not more than 45% of funds are to be with any one Fund Manager. All funds are kept below this required level of 45%.

#### 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 2004

#### **Management of General Fund Bank Balance**

During September Council had an outflow of funds of \$400,000. There were no substantial movements during the month.



#### Management of General Fund Bank Balance

#### Funds Performance against the UBSWA Bank Bill Index

The weighted average return for the total portfolio of managed funds during September was 6.30% compared to the benchmark of the UBSWA Bank Bill Index of 5.56%.

Fund Manager	Terms	Opening Balance	Cash flow Movement	Income Earned (net of fees)	Closing Balance	Interest Rate
BT Institutional Managed Cash	At Call	\$3,313,504	(\$1,200,000)	\$12,587	\$2,126,091	5.61%
BT Institutional Enhanced Cash	At Call	\$5,324,284	-	\$26,916	\$5,351,200	6.64%
Macquarie Income Plus Fund	At Call	\$5,534,888	-	\$29,333	\$5,564,222	6.94%
Perennial Cash Enhance Fund	At Call	\$5,346,884	\$800,000	\$28,148	\$6,175,033	6.00%
CBA Loan Offset No 1	Offset	\$1,300,000	-	\$5,984	\$1,300,000	5.60%
CBA Loan Offset No 2	Offset	\$1,560,000	-	\$7,180	\$1,560,000	5.60%
TOTALS		\$22,379,560	(\$400,000)	\$110,148	\$22,076,546	

A summary of each funds performance is shown in the following table.

#### Year-to-date Funds Performance against the UBSWA Bank Bill Index

The following table provides a year-to-date analysis of each fund's performance against the industry benchmark.

Fund Manager	Performance Annualised for July 2004 – September 2004	UBSWA Bank Bill Index Annualised for July 2004 – September 2004
BT Institutional Managed Cash	5.70%	
BT Institutional Enhanced Cash	6.16%	
Macquarie Income Plus Fund	6.53%	5 590/
Perennial Cash Enhanced Fund	5.96%	5.58%
CBA Offset No.1	5.60%	
CBA Offset No.2	5.60%	

#### **Allocation of Surplus Funds:**

Council's funds during September were allocated as follows:

#### Portfolio Allocation of Surplus Funds



#### 2003/2004 versus 2004/2005

#### **Accumulative Interest**

The following graph compares the interest earned on an accumulative monthly basis for financial years 2003/2004 and 2004/2005. As at the end of September 2004, year to date interest earnings totalled \$251,500. This compares to \$208,400 at the same time last year, an increase of \$43,100.

S02722 12 October 2004



March

poill

June

May

#### **Total Investment Portfolio**

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\$1,000,000 \$900,000 \$800,000 \$700,000 \$600,000

\$500,000

\$400,000 \$300,000 \$200,000 \$100,000 \$-

The following graph tracks the monthly investment portfolio balances for 2004/2005 in comparison to 2003/2004.

February

Januar

December

Novembe

Octobe





During September 2004 Council's investment portfolio decreased by \$400,000. In comparison, during September 2003 Council's investments increased by \$3,400,000. The main reason for this difference relates to the timing of funds received from the first rate installment.

Council's closing investment portfolio of \$22,076,500 in September 2004 is \$105,500 lower than the September 2003 closing balance of \$22,182,000.

#### **Capital Works Projects**

As at the end of September 2004 Council has expended \$2,125,000 on capital works, which is \$919,000 higher than at the same time last year when \$1,206,000 had been expended.

#### Item 8

#### S02722 12 October 2004

During September 2004 Council expended \$697,600 on capital works, which compares to \$459,800 during September 2003, an increase of \$237,800.

Council's 2004/2005 total budget for capital works (excluding fleet replacement) is \$7,824,500 which leaves funds of \$5,699,500 unspent at the end of September.

The following graph compares the accumulative monthly expenditure totals for Capital Works for financial years 2003/2004 and 2004/2005.



#### Portfolio Performance Average Return 2003/2004 versus 2004/2005

The following graph compares the monthly returns on Council's portfolio for the financial years 2003/2004 and 2004/2005.

In September 2004 earnings before fees were 6.30%, this compares to 5.28% in September 2003.

For the period July 2004 – September 2004 Council's average earnings before fees were 6.05%. This compares to 5.22% for the same period last financial year.





#### 2004/2005 Portfolio Performance against the UBSWA Bank Bill Index

Council's average portfolio return performed above the UBSWA Bank Bill Index 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.



Average return of Portfolio against Bank Bill Index 2004/2005

#### **Summary of Borrowings**

There were no loan repayments made in September, leaving the total level of debt at \$11,465,800.

Lender	Loan Number	Original Principal	Principal Repayments	Balance Outstanding	Interest Rate	Draw Down Date	Maturity Date
Westpac	124	\$4,000,000	\$3,683,316	\$316,684	10.95%	02-Feb-95	02-Feb-05
Westpac	125	\$1,000,000	\$913,373	\$86,627	6.27%	02-Feb-95	02-Feb-05
Westpac	127	\$1,000,000	\$524,374	\$475,626	6.32%	29-Jun-98	29-Jun-08
CBA Offset No 1	128	\$2,600,000	\$1,300,000	\$1,300,000	5.75%	29-Jun-99	13-Jun-09
CBA Offset No 2	129	\$2,600,000	\$1,040,000	\$1,560,000	5.75%	13-Jun-00	14-Jun-10
СВА	130	\$2,600,000	\$618,247	\$1,981,753	6.32%	26-Jun-01	28-Jun-11
NAB	131	\$2,600,000	\$389,123	\$2,210,878	6.85%	27-Jun-02	27-Jun-12
Westpac	132	\$1,882,000	\$147,788	\$1,734,212	5.16%	27-Jun-03	27-Jun-13
СВА	133	\$1,800,000	-	\$1,800,000	6.36%	23-Jun-04	23-Jun-14
TOTAL		\$20,082,000	\$8,616,219	\$11,465,780			

## CONSULTATION

Not applicable

# FINANCIAL CONSIDERATIONS

The Reserve Bank of Australia (RBA) again left the official cash rate unchanged at 5.25% during September. The RBA last raised the official cash rate in December 2003. Market analysts are indicating that the official cash rate will remain unchanged for the next few months.

# CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

## SUMMARY

As at 30 September 2004:

- Council's total investment portfolio is \$22,076,500. This compares to an opening balance of \$17,271,200 as at 1 July 2004.
- Council's General Fund interest on investments totals \$251,500. This compares favourably to the year-to-date budget of \$206,300.
- Council's total debt is \$11,465,800. This compares to a total debt of \$11,850,000 as at 1 July 2004.

# RECOMMENDATION

That the summary of investments, daily cash flows and loan liability for September 2004 be received and noted.

Mellissa Crain Manager Business Development John McKee Director Finance and Business

S02355 19 October 2004

# **COUNCIL MEETING CYCLE - CHRISTMAS RECESS**

# **EXECUTIVE SUMMARY**

PURPOSE OF REPORT:	To give consideration to the meeting schedule for December 2004, January and February 2005 and granting the appropriate Delegation of Authority to the Mayor, Deputy Mayor and General Manager during the recess period.
BACKGROUND:	Not applicable.
COMMENTS:	Christmas Recess - Council has traditionally held the last meeting for the year mid December and resumed on the first Tuesday of the meeting cycle in February.
RECOMMENDATION:	That the last meeting for 2004 be held on Tuesday, 14 December 2004 and that the normal meeting cycle resume on Tuesday, 8 February 2005.

S02355 19 October 2004

# **PURPOSE OF REPORT**

To give consideration to the meeting schedule for December 2004, January and February 2005 and granting the appropriate Delegation of Authority to the Mayor, Deputy Mayor and General Manager during the recess period.

# BACKGROUND

Not applicable.

# COMMENTS

#### **Christmas Recess**

Council has traditionally held the last Council meeting for the year on the second or third Tuesday in December and resumed on the first Tuesday in the meeting cycle in February.

The normal meeting cycle for December 2004 would be:

2nd Tuesday - Ordinary Meeting of Council 4th Tuesday - Ordinary Meeting of Council

As the 4th Tuesday is a Public Holiday, it is recommended that the meeting be brought forward to the 1st Tuesday - 7 December 2004 with the last Ordinary Meeting of Council being held on Tuesday, 14 December 2004 and the normal meeting cycle to resume on Tuesday, 8 February 2005.

#### Delegation

During the recess period, it will be necessary to grant Delegated Authority to the Mayor, Deputy Mayor and General Manager to exercise the functions of Council where such functions could not be deferred until the meeting of Council on 8 February 2005.

### CONSULTATION

Not applicable.

# FINANCIAL CONSIDERATIONS

Not applicable.

# CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

All Department Heads have been consulted on the amended cycle.

## SUMMARY

Not applicable.

## RECOMMENDATION

A. That Council amend its meeting cycle for December 2004 as follows:

7 December 2004 - Ordinary Meeting of Council (Brought forward from 28 December 2004) 14 December 2004 - Ordinary Meeting of Council (Last Meeting for 2004)

- B. That the normal meeting cycle resume on Tuesday, 8 February 2005.
- C. That the Mayor, Councillor Adrienne Ryan, the Deputy Mayor, Councillor Nick Ebbeck and the General Manager, Brian Bell, be granted authority to exercise all powers, authorities, duties and functions of Council except those set out in Section 377 of the Local Government Act 1993 during the period 15 December 2004 to 7 February 2005, subject to the following conditions:
  - 1. Such powers, authorities and functions may only be exercised by unanimous agreement between the Mayor, Deputy Mayor and General Manager.
  - 2. Any such power, authority, duty or function shall only be exercised by the Mayor, Deputy Mayor and General Manager jointly where they are of the opinion that the exercise of any such power, authority, duty or function could not be deferred until the meeting of Council on 8 February 2005.
- D. That consultation subject to their availability be held with Ward Councillors on matters where they would normally be contacted before delegation is exercised.

Brian Bell General Manager

P63450, P63455 20 October 2004

# PIPING OF OPEN CHANNEL IN 13 & 13A WOLSTEN AVENUE, TURRAMURRA

# **EXECUTIVE SUMMARY**

PURPOSE OF REPORT:	To consider a request to pipe the open channel in 13 and 13A Wolsten Avenue, Turramurra.
BACKGROUND:	Owners of 13 and 13A Wolsten Avenue have requested piping of the open channel drainage system in their properties. This system is piped at both ends which conveys stormwater off public roads.
	The drainage system through 11, 13 and 13A Wolsten has not been formalised by the creation of a Drainage easement over these properties.
COMMENTS:	The open channel section is not considered as a natural watercourse based on physical and environmental indications. The channel deviates from the natural depression being realigned between 31 Evelyn Avenue and 11 Wolsten Avenue to suit the lot boundaries and by its exclusion from the (draft) Map of Riparian Systems.
	Preliminary advice from the Department of Infrastructure, Planning and Natural Resources (DIPNR) notes they are unlikely to support the proposal and indicates they considered this system as a natural watercourse.
	Piping of the open channel in both 13 and 13A consecutively would have merits of achieving improved capacity of the system, with low or negligible environmental impact.
<b>RECOMMENDATION:</b>	That Council approve in principle the piping of the channel subject to recommendations in items (1) to (7).

P63450, P63455 20 October 2004

# **PURPOSE OF REPORT**

To consider a request to pipe the open channel in 13 and 13A Wolsten Avenue, Turramurra.

## BACKGROUND

The owners of 13 and 13A Wolsten Avenue have both formally requested piping of the open channel within their properties. The open channel has been the subject of correspondence for many years between Council and these owners have concerns about the safety, damage to structures and deterioration of the channel.

The drainage system is fully piped at both ends, as drawn in **Attachment A**. The system is piped upstream under Evelyn Avenue and a 600mm pipe extends downstream through 31 Evelyn Avenue to an outlet adjoining the boundary with 13A Wolsten Avenue. Within 13 Wolsten Avenue, the open channel conveys stormwater into a 750mm pipeline, about 25m in length along the western boundary constructed in the late 1950's. The pipeline then traverses through the front yard of 11, 9 and 7 Wolsten Avenue, draining to Lovers Jump Creek about 250m downstream.

The public drainage system through 11, 13 and 13A Wolsten has not been formalised by the creation of a Drainage easement over these properties.

# COMMENTS

A site inspection was carried out in September 2004 to record the condition of the open channel and photos taken, as **Attachment B**.

Within 13 Wolsten Avenue, the channel has a consistent trapezoidal cross section. The channel is fully lined with a concrete base about 0.5metres wide, and sides lined by concrete slabs laid horizontally, and use of mortared brickwork to the full depth of about 1.5metres. The longitudinal slope is sufficient to be self-cleansing as observed. Piping of this open channel is considered to have a negligible environmental impact as no vegetative growth exists on the sides or base, and length of piping downstream, lack of pooling precludes few areas for aquatic habitat.

The open channel across 13A Wolsten is about 25metres in length, comprising of an earth lined base and sides 1.2-1.5 metre in height, that are almost vertical. The channel is constrained by its narrow width, non-uniform cross section and minimum longitudinal grade which limits the capacity to convey stormwater currently.

Piping of the open channel in both 13 and 13A consecutively would have merits of achieving improved capacity of the system rather than by piping in 13 alone.

The Department of Infrastructure, Planning and Natural Resources (DIPNR) was requested to provide comment on the proposal. DIPNR has an approval role under the Rivers and Foreshores Improvement Act 1948 (R&FI Act) which relates to the management of rivers, estuaries and lakes.

#### Item 10

#### P63450, P63455 20 October 2004

DIPNR advises that a 3A permit (as required under the Act) is unlikely to be issued for any proposal involving further degradation of the watercourse on the site, including piping. Any proposed in-stream works may also require an approval from NSW Fisheries under section 201 of the Fisheries Management Act, 1994.

However, this section of open channel is not considered as a natural watercourse based on physical and environmental indications.

In terms of physical indications, the original watercourse was realigned between 31 Evelyn Avenue and 11 Wolsten Avenue downstream as demonstrated by:

- Comparison of this system with the natural drainage depression as indicated by the contours;
- Deviation and channelisation of the drainage system as shown by the 45 degree turn (in 31 Evelyn) and near 90 degree bend (in 13 Wolsten); and
- Location of piping and open channels to suit drainage through lot boundaries of 31 Evelyn Avenue, 13 and 13A Wolsten Avenue.

In terms of environmental indications, the system is not recognised on the (Draft) Map of Riparian Systems in the Ku-ring-gai Local Government Area for any of the three categories: environmental corridor, terrestrial and aquatic habitat, or bank stability and water quality. If incorporated, its value would be compromised by virtue of its isolated position from the mapped riparian systems and use of lining materials.

The subject property at 13A Wolsten Avenue was granted a Development Consent by Council on 31 August 2004. Impact to trees was considered a main issue. Discussion with Landscape and Tree Assessment indicates they were not favorable to piping as trenching may impact on the tree roots and reduce water uptake for the tree. The impact on tree roots from construction can be managed by requirements for hand excavation near roots and inspection during construction for monitoring purposes. Piping is not considered to have a significant impact as a water source for the tree given:

- The system passes on a small portion of the tree envelope and is not the sole source.
- Aggregate used in the trench drains water providing a source in this vicinity.

A Drainage Easement has not been created over the drainage system through 11, 13 and 13A. Owners of 13 and 13A have been advised that if piping is approved, an easement would be required, benefiting Council to legally drain public road waters through private property. The width would be 1.83 metres consistent with the created easements upstream and downstream.

Piping benefits Council by improving safety, removes risk of damage to structures from eroding sides and any future maintenance issues as a result from deterioration of the channel.

# CONSULTATION

As the open channel is linked between sites, an inspection was carried out with the owners of 13 Wolsten Avenue to determine conditions and correspondence was undertaken with owners of 13A. Comments were sought from DIPNR regarding the proposal.

P63450, P63455 20 October 2004

# FINANCIAL CONSIDERATIONS

Should Council approve the piping, any works undertaken are considered to benefit the owners directly rather than the community at large. Consequently, all costs associated with any survey, legal and construction should be borne by the owners respectively.

# CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Discussions were held with Development & Regulation Department on matters relating to the impact of piping on the stand of Blue Gum trees situated in 13A.

### SUMMARY

The owners of 13 and 13A Wolsten Avenue requested piping of the open channel within their properties which is part of the public drainage system, and piped upstream and the downstream extends more than 250 metres draining to Lovers Jump Creek.

The open channels vary between properties. The channel in 13A is about 25metres long, is earth lined on the base and sides, narrow width and minimum grade. Within 13 Wolsten Avenue, the channel is about 35metres long, fully lined with concrete and masonry on the base and sides. Piping of both open channels would achieve improved capacity of the system than by piping in 13 alone and have a low or negligible adverse environmental impact.

The Department of Infrastructure, Planning and Natural Resources refer to the site as a watercourse and indicate they are unlikely to issue a 3A Permit for the piping. Approval from NSW Fisheries under section 201 of the Fisheries Management Act, 1994 may also be required for the works.

The open channel is not considered as a natural watercourse based on physical indications, that the original watercourse was realigned, with deviation and channelisation to suit drainage through lot boundaries. Environmental indications note that the system has not been recognised on the (Draft) Map of Riparian Systems in the Ku-ring-gai Local Government Area for any of the three categories.

Although issues of impact on trees were raised by Landscape and Tree Assessment, it can be managed by requirements for hand excavation around roots and periodic inspection during construction. Piping this system will not entirely result in removal of water, given that the function of the pipe trench would convey groundwaters.

The absence of Drainage Easement over 13 and 13A can be rectified if piping is approved and therefore benefit Council to legally drain public road waters through private property. It is recommended that Council also approach the owners of 11 Wolsten Avenue to link the easement.

P63450, P63455 20 October 2004

### RECOMMENDATION

That the request by owners of 13 and 13A Wolsten Avenue, Turramurra to pipe the open channel within their properties be approved in principle subject to:

- 1. The system is to be formalised by the creation of an easement to drain stormwater 1.83 metres wide over 13 and 13A Wolsten Avenue, Turramurra and be created pursuant to section 88B of the Conveyancing Act.
- Council writing to the owners of 11 Wolsten Avenue advising of the decision and seeking to formalise the system by the creation of an easement to drain stormwater 1.83 metres wide over the property at the same time as 13 and 13A Wolsten Avenue, Turramurra. That legal and survey costs associated for the creation within 11 Wolsten Avenue are paid by the Council.
- 3. Council writing to the Department of Infrastructure, Planning and Natural Resources advising of the decision and request for comments and/or approval.
- 4. Council writing to NSW Fisheries advising of the decision and request for comments and/or approval.
- 5. The owners of 13 and 13A Wolsten Avenue, Turramurra being notified in writing of the decision as well as the process and Council requirements. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer for submission to Council for approval of detailed design documentation for the piping within the subject property.
- 6. The owners of 13 and 13A Wolsten Avenue, Turramurra being advised that the full cost of piping construction as well as survey and legal work associated with the creation of the easements, including the payment of any of Council's legal costs and disbursements for the checking of associated documentation are borne by the owners.
- 7. That the terms of the Easements to Drain stormwater be carried out by the Applicant's Solicitors.

Ian Taylor MANAGER SUPPORT SERVICES

Greg Piconi DIRECTOR TECHNICAL SERVICES

# Attachments:Attachment A - Locality PlanAttachment B - Photos of open channel in 13 & 13A Wolsten Avenue

# POLICY ON DRAINAGE WORKS AND MAINTENANCE

# **EXECUTIVE SUMMARY**

PURPOSE OF REPORT:	To seek Council's approval for a policy and procedures for drainage works and maintenance including a five year drainage program.
BACKGROUND:	The Supreme Court of NSW issued Orders on Council in 1985 to resolve the issues of "Nuisance" associated with drainage for a private property in Gordon. Subsequent hearings took place, and Council was unsuccessful in its appeal to both the Supreme Court and the High Court. One of the reasons why Council lost the matter was because it did not have a policy or priority system that could be used to defend the matter in court.
	A requirement of the Management Plan is to improve Council's drainage system by ensuring risk management processes are in place to address liability issues.
	On 30 April 2002, Council adopted ranking criteria used for prioritising future capital works for stormwater drainage which was then used to develop a five year rolling drainage program. The program was adopted on 19 November 2002.
COMMENTS:	Now that the catchment analysis works have been completed for the Cowan Creek and Middle Harbour Creek catchments, new ranking criteria has been established. The existing criteria required updating and a new procedure for managing risk and allocating funds on a priority basis to address liability issues has been based on the information from the catchment analysis.
<b>RECOMMENDATION:</b>	That Council adopts the Draft Policy for Drainage Works and Maintenance Procedures Including 2004/05-2008/09 Program and places it on public exhibition.

S02773 29 October 2004

# **PURPOSE OF REPORT**

To seek Council's approval for a policy and procedures for drainage works and maintenance including a five year drainage program.

# BACKGROUND

The Supreme Court of NSW issued Orders on Council in 1985 to resolve the issues of "Nuisance" associated with drainage for a private property in Gordon. Subsequent hearings took place, and Council was unsuccessful in its appeal to both the Supreme Court and the High Court. One of the reasons why Council lost the matter was because it did not have a policy or priority system that could be used to defend the matter in court.

Since 1969, Council staff has collected information on reported flooding. There have been approximately 2150 reports affecting 996 properties ranging from flooding of habitable rooms to flooding of garden areas.

As such, a requirement of the Management Plan is to improve Council's management of its drainage system by ensuring risk management processes are in place to address liability issues.

The risk process comprised two key indicators; development of a policy and implementation of a works program for drainage. On 30 April 2002, Council adopted a report detailing ranking criteria used for prioritising future capital works for stormwater drainage. The criteria was used to develop a five year rolling drainage program which was adopted on 19 November 2002. Some of these works have since been carried out.

A copy of the previously adopted ranking criteria is attached as Attachment 1.

Since then, two engineering consultants have carried out stormwater analysis and planning for the Middle Harbour and Cowan catchments during 2003 which was completed in July 2004. After this time, the consultants along with relevant Council staff, have jointly developed a revised ranking criteria used for prioritising drainage works based on their experience with other councils, criteria adopted previously and input from Council staff. This criteria is similar to a number of other council areas and therefore can be considered an industry standard. The criteria is also consistent with the guidelines in the Flood Plain Management Manual.

As Council has been the subject of legal action in the past, it now seeks to limit the potential for future action by adopting a policy and procedure for drainage works and maintenance, incorporating the revised criteria for ranking drainage works.

# COMMENTS

Whilst State legislation has been developed to protect councils against non feasance, it is still necessary for Council to have a policy and procedure for drainage works and maintenance to help

#### Item 11

#### S02773 29 October 2004

defend matters in the court if they should eventuate. Also, this information helps provide advice to residents on the relative priority of Council's drainage works and provides an understanding of the scope of work Council is required to achieve.

#### **Policy Rationale**

In defending any claim, knowledge of a nuisance requires a plan of action to address the claim. Council would be better served to develop a policy for managing its drainage assets in order to minimise liability issues and allocate resources on a program basis taking into account the severity and likelihood of the risk.

The Insurance Co-ordinator has provided the following information:

"There is no 'absolute' formula which will guarantee Council will not be held responsible. The standard of reasonableness in cases of public liability is amorphous with each case considered on its own facts and circumstances. ...as long as we can demonstrate that Council has taken all reasonable steps necessary in this whole construction, we have a case."

Claims against Council are considered by our Insurers in accordance with the facts and circumstances of the particular occurrence.

Establishment of a policy should consider risk management procedures and priority ranking system, as well as maintenance measures which are supported by catchment research and modelling.

The policy should be flexible in order to consider Council's budget provisions and its ability to respond to requests or notified problem areas.

#### Rationale for revised ranking criteria

Principles and objectives of the existing criteria place emphasis solely on anecdotal evidence of flooding, qualitative assessment of maintenance demand, environmental impacts, and capacity issues without accounting for a proper assessment of the condition of the drainage system or addressing issues associated with risk.

Limitations of the previous process in terms of costs and works are:

- Unknown deficiencies in terms of capacity. No proper assessment of the condition of the existing drainage network, in terms of flow.
- Estimated costs of \$66 million to bring Council's drainage system to a 1 in 20 year standard.
- Criteria and consequent works program based on reported information. Limitations of the criteria was recognised, whereby reports would need to be investigated for authenticity, whether it is essentially a maintenance requirement, a matter of drainage capacity, or upgrading of works since those reports.

#### Item 11

Also, the accounting standards of AAS27 requirements needed to bring assets up to satisfactory standard is meaningless unless the system meets design criteria and conditions of the drainage system are known.

A process is therefore needed to identify works required, with policy documents that demonstrate Council's priorities and rationale behind this to show due process into the risk analysis.

#### Revised Five Year Drainage Works Program 2004/05-2008/09

A consolidated five year rolling works program has been identified based on (hydrological and hydraulic) analysis, to identify deficiencies in terms of capacity in the Middle Harbour and Cowan Creek catchments to determine drainage problem areas. This incorporates an overlay of the reported flooding incidences.

Attached as **Attachment 2** is a copy of the Draft Policy for Drainage Works and Maintenance Procedures Including the 2004/05-2008/09 Program.

Following the completion of the Lane Cove Catchment stormwater analysis and planning project, the identified drainage problem areas are to be incorporated into the program. An identified methodology, input parameters, analysis and ranking criteria used for the Middle Harbour and Cowan Catchments are to be applied to allow integration of the data into the existing consolidated Drainage Works program.

# CONSULTATION

Consultation was undertaken with both Consulting Engineering companies, Hughes Trueman Pty Ltd and WP Brown Pty Ltd in development of the ranking criteria, weightings as well as their relative importance and relationships.

# FINANCIAL CONSIDERATIONS

Council allocates approximately \$360,000 each financial year to drainage improvement works and this amount is used to prioritise the five year rolling program. Additional sources of funding may come from an Environmental Levy where sustainability projects could incorporate capacity requirements or potentially through Section 94 contributions.

# CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Advice was sought from Council's Insurance Co-ordinator on matters of Council liability on drainage matters.

# SUMMARY

#### Item 11

#### S02773 29 October 2004

In 1985, the Supreme Court of NSW issued orders to Council to resolve issues of "nuisance" associated with drainage in private property that was partially lost given that Council did not have a priority system or policy in place that could be used as a defence in court. This matter is compounded in light of approximately 996 properties which have reported incidences of flooding.

Whilst Council previously adopted ranking criteria in 2002, this was based on anecdotal information and did not take into account any apparent capacity deficiencies. This would only be determined when analysis was carried out using the list.

The use of the catchment modelling data and previous data provides Council with better information on the drainage network and how to effectively prioritise the works. This action is demonstrated by a due process of risk analysis, incorporating;

- Analysis of the drainage system;
- updating the ranking criteria to address past limitations, to assess the severity of the risks as well as the cost and effectiveness of proposed solutions;
- a policy which has been developed for drainage works and maintenance procedures; and
- allocation of available funding under a works program.

### RECOMMENDATION

- A. That Council adopts the Draft Policy for Drainage Works and Maintenance Procedures Including 2004/05-2008/09 Program as attached.
- B. That the Draft Policy for Drainage Works and Maintenance Procedures Including 2004/05-2008/09 Program be placed on public exhibition for community comment.

Ian Taylor Manager Support Services Greg Piconi Director Technical Services

Attachments:1. Existing ranking criteria list for stormwater drainage.2. Draft Policy for Drainage Works and Maintenance Procedures<br/>Including 2004/05-2008/09 Program.

S03843 26 October 2004

# PROPOSED DRAFT LOCAL ENVIRONMENTAL PLAN -DUAL OCCUPANCY SUBDIVISION/CHILD CARE CENTRES/26 - 28 TURRAMURRA AVENUE AND 33 - 35 GILROY ROAD, TURRAMURRA

# **EXECUTIVE SUMMARY**

PURPOSE OF REPORT:	To seek Council's endorsement of the issues to be included in proposed Draft Local Environmental Plan No 204.	
BACKGROUND	<ul> <li>On 24 August 2004 Council resolved to prepare a draft local environmental plan to provide a savings provision to allow for strata subdivision of dual occupancies approved under SEPP 53 on lands which are now zoned under LEP 194.</li> <li>The matter has arisen concerning the appropriateness of providing for Child Care Centre development in lands covered by LEP 194. This needs Council's resolution to prepare a Draft LEP if it is to proceed.</li> <li>The Department of Infrastructure Planning and Natural Resources has requested that Council prepare a Draft LEP to correct the Minister's mapping error which omitted 26 – 28 Turramurra Avenue and 33 – 35 Gilroy Road, Turramurra from LEP 194 when it was gazetted.</li> </ul>	
COMMENTS:	A Draft LEP (DLEP 204) is being prepared in response to Council' resolution of 24 August 2004. If Council wishes to allow for Child Care Centres in lands covered by LEP 194 it would be expedient to also include the necessary measures in this Draft LEP. If Council further chooses to address the Minister's error of omission from LEP 194 the new Draft LEP 204 also provides an appropriate opportunity to make the correction as requested by DIPNR.	
<b>RECOMMENDATION:</b>	That Council resolve to extend the provisions of proposed Draft LEP 204 to include the introduction of Child Care Centres as a permissible use in lands covered by LEP 194 and to correct the Ministers mapping error in the gazettal of LEP 194.	

# **PURPOSE OF REPORT**

To seek Council's endorsement of the issues to be included in proposed Draft Local Environmental Plan No 204.

# BACKGROUND

1. On 24 August 2004 Council gave consideration to Draft LEP 200 and resolved its final format for submission to DIPNR. Council also resolved:

That council resolve to prepare and exhibit an LEP to permit the strata subdivision of dual occupancies built on sites that have been rezoned under LEP 194 and for which consent for a dual occupancy development was granted prior to the date of commencement of LEP 194 or granted pursuant to the savings provision contained in LEP 194 (Clause 5).

- 2. LEP 194 (as gazetted) makes no provision to allow a Child Care Centre as a permissible use in the 2(c1), 2(c3) and 2(d3) zones. The lands covered by these zones were mainly zoned 2(a), 2(b), 2(c) prior to gazettal. These zones permitted Child Care Centre development. Given the need for Child Care Centres in the community, the loss of these potential sites from central locations in the highway/railway spine of Ku-ring-gai is a potential concern. This can be redressed if Child Care Centres were to be reintroduced as permissible development in the 2(c1), 2(c2) and 2(d3) residential zones.
- 3. Draft LEP 194 when submitted to the Minister by Council proposed Nos. 26-28 Turramurra Avenue and 33-35 Gilroy Road, Turramurra as medium density 2(d1) (interface) zones. The Minister, when gazetting LEP 194, zoned all medium density zones (including 2(d1) zones) as 2(d3) allowing development of up to 5 storeys. Due to a mapping error by the Minister in the gazettal of LEP 194 the 4 subject sites were omitted from the Plan. It was the Minister's intention that they be zoned 2(d3). Council has received a request from DIPNR asking that these lands be the subject of a new LEP and included as Residential 2(d3) (see **attached** DIPNR letter).

# COMMENTS

- 1. Council has resolved to prepare a draft LEP to address a savings provision for strata subdivision of SEPP 53 dual occupancies located within lands zoned under LEP 194. The additional matters concerning Child Care Centres in LEP 194 zoned lands and the correction of the Minister's mapping error also require consideration by Council. If Council proposes to prepare draft LEPs in respect of these additional matters it would expedite their processing to combine all matters within the one draft LEP.
- 2. It is recognized that the gazettal of LEP 194 has effectively removed from these former residential 2(a), 2(b) and 2(c) zones the ability to accommodate Child Care Centres as a permissible form of development. This is not a desirable outcome considering the community need for such facilities in well located areas. The reintroduction of Child Care Centres as a

#### S03843 26 October 2004

permissible use within the 2(c1), 2(c2) and 2(d3) zones covered by LEP 194 can be supported.

3. The Minister's accidental exclusion of 26 – 28 Turramurra Avenue and 33 – 35 Gilroy Road, Turramurra from LEP 194 is recognized. It had been Council's intention under its Draft LEP 194 that these lands be zoned for medium density residential development under a 2(d1) zone (3 storey maximum). It is considered that the sites should be rezoned to permit medium density residential development as was intended. There had been the expectation on the part of the owners that rezoning would take place. They are now anxious that this be finalized.

There is no 2(d1) zoning available within the Ku-ring-gai Planning Scheme Ordinance given the manner of the gazettal of LEP 194. Council would have to seek to create a new 2(d1) zone if it were to seek to establish an interface zone for these sites as was its original intention. Under the circumstances it is considered appropriate that the Minister's intent to establish a 2(d3) zone for the lands be accepted.

4. For the sake of efficiency and expediency the combination of all matters discussed in the preceding points 1 to 3 can be supported for including within one draft LEP. To this end Draft Local Environmental Plan No 204 has been prepared and is **attached** to this report.

# CONSULTATION

- 1. Council has received representations on behalf of individuals seeking Council to provide for a savings clause for dual occupancy subdivisions where the development has been lodged pursuant to SEPP 53 and has since been rezoned by LEP 194 and representation to have Child Care Centres as permissible use in these areas covered by LEP 194.
- Council has been requested by DIPNR to prepare a new draft LEP to correct the Minister's mapping error in the gazettal of LEP 194 as it relates to 26 28 Turramurra Avenue and 33 35 Gilroy Road, Turramurra.

# FINANCIAL CONSIDERATIONS

Financial considerations are specific to the staff time for the preparation of Draft LEP 204 and this report.

# CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Community Services Department have been advised of the amendment to permit Child Care Centres in the lands zoned under LEP 194 and support the amendment.

# SUMMARY

1. Draft LEP 204 has been prepared providing a savings provision for the strata subdivision of dual occupancies approved under SEPP 53 in accordance with Council's resolution of 24 August 2004.

#### S03843 26 October 2004

- 2. Council's endorsement is sought for the inclusion in DLEP 204 of the additional matters of providing for the establishment of Child Care Centres in 2(c1), 2(c2) and 2(d3) zones as well as correcting the Ministers LEP 194 mapping error at 26 28 Turramurra Avenue and 33 35 Gilroy Road, Turramurra, allowing their rezoning to 2(d3).
- 3. Draft LEP 204 has been prepared in anticipation of Council's endorsement of the preceding point 2 and is **attached** to this report.

### RECOMMENDATION

- A. That the Council prepare and exhibit a Draft Local Environmental Plan to:
  - 1. Provide for the inclusion of Child Care Centres as a permissible use in 2(c1), 2(c2) and 2(d3) zones of the Ku-ring-gai Planning Scheme Ordinance.
  - 2. To rezone 26 28 Turramurra Avenue and 33 35 Gilroy Road, Turramurra to 2(d3).
- B. That the contents of the new Draft LEP be combined with the draft LEP that Council resolved to prepare on 24 August 2004 (ie to provide savings provisions for strata subdivision of those dual occupancies approved under SEPP 53 provisions).
- C. That the Department of Infrastructure Planning and Natural Resources be advised of Council's decision to prepare the new draft Local Environmental Plan in accordance with the provisions of Section 54 of the Environmental Planning and Assessment Act 1979.
- D. That Council consult with relevant public authorities as required under Section 62.
- E. That Council place the new Draft Local Environmental Plan on public exhibition in accordance with statutory requirements.
- F. A report be brought back to Council at the end of the exhibition period.

Rod Starr Land Use Planner Leta Webb Director Planning and Environment

# Attachments:1. Letter from DIPNR requesting rezoning2. Draft LEP 204

S03673 27 October 2004

# DRAFT DEVELOPMENT CONTROL PLAN NO 56 -NOTIFICATION

# **EXECUTIVE SUMMARY**

PURPOSE OF REPORT:	To present to Council Draft Development Control Plan No 56 (Draft DCP No 56) - Notification for exhibition.
BACKGROUND:	Council's Notification Policy came into effect in February 2003. However, under current legislation Council's notification provisions for development applications must be contained in a Local Environment Plan (LEP) or Development Control Plan (DCP).
COMMENTS:	The preparation of the DCP has provided an opportunity to review the objectives and provisions of the existing Notification Policy. The Draft DCP complies with the legislation and incorporates a range of notification and advertising provisions that are appropriate to the variety of development application types received by Council and their likely impact.
RECOMMENDATION:	That Draft DCP No 56 be placed on exhibition and notified in accordance with the provision of the EP&A Act. That a report be brought back to Council following the exhibition period.

# **PURPOSE OF REPORT**

To present to Council Draft Development Control Plan No 56 (Draft DCP No 56) - Notification for exhibition.

# BACKGROUND

Under current legislation, the only forms of proposed development that must be advertised and notified are designated, state significant and integrated development. The legislation therefore does not require advertisement or notification of the majority of development applications received by councils.

To ensure that councils are able to appropriately consult with stakeholders, the *Environmental Planning and Assessment Act 1979* ('the Act') allows councils to add to or extend the minimum provisions contained in the EP & A Regulation 2000 concerning notification and advertising of development applications.

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

The Notification Policy is still being used by Council to determine where notification is required and how it must be undertaken. However, the Act requires that this not be in a policy but within a DCP proposed pursuant to S72.

Another reason for undertaking the review is to remove reference to rezoning applications as such policy cannot be included in a DCP. Policy about rezonings undertaken by Council will therefore be transferred to the Consultation Policy.

# COMMENTS

The preparation of the DCP for Notification has provided Council with the opportunity to review and rationalize the objectives and provisions in the existing Notification Policy and the way in which the Policy is being used.

#### **General Issues**

Notification and advertising are important components in the process of considering development applications, allowing the community to participate in the planning process.

In the 2003/2004 financial year, more than 44,200 notification letters were sent regarding 2165 applications. Fulfilling the requirements of the existing Notification Policy involves considerable staff time, including that of administration, records and assessment officers. In addition to the time required for preparing and sending the letters, considerable time is also used in responding to queries from the community who receive letters about minor development which is often several
#### Item 13

#### S03673 27 October 2004

properties removed and can have no impact on those residents. Such people are often concerned that, because it warranted a letter, the proposed development may have a substantial impact upon the enjoyment of their properties.

The excessive number of letters commonly sent out can also result in delays to the assessment process, as this practice tends to generate additional submissions that need to be considered and noted in officers' reports. Such letters from residents who will not be affected do not necessarily assist officers in the assessment process as they do not detail expected impact of the development, but merely express general dislike of a particular type of development.

The large amount of notification currently occurring also uses significant material and financial resources, including postage costs (over \$22,000 last financial year) and paper (approximately 265 reams last financial year).

In contrast, Council's Policy does not require sufficient notification for some applications, most notably dual occupancies, which do not presently require advertising.

In reviewing the Policy and creating a new DCP, the primary objectives have been to:

- ensure that notification and advertising involves the community to the extent appropriate for the specific development;
- reduce the amount of staff time spent in fulfilling excessive or inappropriate notification requirements;
- ensure that Council resources are used effectively;
- ensure that the requirements are consistent with the Ku-ring-gai Planning Scheme Ordinance (KPSO) and all relevant legislation; and
- rationalise our notification practices to ensure that they are in proportion to the catchment of properties likely to be affected by a development proposal.

### Ku-ring-gai Planning Scheme Ordinance Requirements

The current Notification Policy requires that all development involving heritage items, in addition to numerous other development types, be notified and advertised as 'Category A', the most rigorous advertising category. This appears to have been an interpretation of the KPSO, which specifies that certain development must be notified and advertised in the same way as designated development is notified and advertised under the Act. However, such an interpretation for heritage items is not correct, and often results in a very large amount of notification (plus advertising) for very minor and benign development proposals.

The KPSO requires that demolition of all heritage items and buildings in conservation areas be notified as per designated development requirements. However, other development involving heritage items or in conservation areas need not be notified in this manner unless clause 61H of the KPSO is invoked for the purposes of approving the DA.

Clause 61H allows Council to grant consent to an application involving a heritage item or a building in a conservation area that would otherwise not be permissible, where conservation of the building depends on such consent being granted and where the proposed use would have little or no

#### Item 13

#### S03673 27 October 2004

adverse effect on the amenity of the area. This only applies to a very limited number of applications.

The notification provisions in Draft DCP 56 relating to heritage are consistent with the KPSO requirements and the majority of development relating to heritage items will therefore not be notified in accordance with designated development requirements. Other development that, under the KPSO, requires notification under designated development requirements will still require this.

Following discussion with the Planning Committee over the draft DCP, the minimum notification requirements for applications in this category ('Type F') has been increased (from 'all adjoining properties') to three properties either side of the subject property and seven properties at the rear and front of the property. Whilst this is a lesser requirement than that contained in the current Notification DCP, its purpose is to ensure that the minor works covered by this category are not excessively notified/advertised, while for more major works, Council officers may still notify appropriately.

#### Notification requirements not covered by the KPSO

The draft DCP has been designed to take into account the different types of works that could be proposed for certain development types. For example, a new hospital would require advertising and significant notification, however, minor changes to an existing hospital building in a business zone (such as a new staircase or reconfigured windows) would not warrant advertisement and need be notified only to those properties immediately adjoining the areas where the works were to take place.

Chapter 3 of the DCP is therefore set out as a table, in which between one and three different notification Types are specified for the different development types, depending on the scope of works. It is important to note, however, that notification may always be increased beyond the minimum requirements of the DCP where development assessment staff deem this appropriate.

Specifically, the DCP includes criteria (at 4.7) for determining if the enjoyment of properties will be detrimentally affected. The criteria are considered for each application during the Development Review Unit (DRU) process, which occurs within a week of lodgement. The decision as to whether notification should be increased beyond the minimum specified in the DCP would be determined on the basis of the submitted information and in-house tools such as topographic maps and GIS. In the event that insufficient information was available, the assessment officer would conduct a site inspection to determine the notification required.

In addition to Type F which relates to notification requirements specified in the KPSO, the DCP provides for five other types of notification.

1. Development that is expected to have no impact on the adjoining and neighbouring properties is specified as Type A, for which no notification is required. However, where the development assessment Team Leader is of the opinion that some detrimental impact is likely, notification must take place as considered necessary.

#### Item 13

#### S03673 27 October 2004

- 2. Type B notification relates to applications for section 96(2) modifications to development consent and is consistent with the notification requirements of the Act.
- 3. Type C notification is for minor development that could have some impact upon adjoining properties but that would not necessarily affect all adjoining properties. For example, a carport constructed at the front of a property would be unlikely to affect those properties adjoining the rear. Again, the development assessment Team Leader would determine whether the minimum notification requirements are sufficient and undertake additional notification if necessary.
- 4. Type D is for more significant development where advertising is not considered to be necessary. Examples of such development include new buildings in business zones, extension of trading hours in residential areas, dwelling houses and family flats. The minimum notification requirement for Type D is all adjoining properties. However, the development assessment Team Leader may determine that more extensive notification is required.
- 5. Type E is generally the same as Type F, except that development that falls into this category has no notification requirements specified by the KPSO, so the detail is not the same.

#### Procedures

Chapter 5 of the DCP specifies the manner in which advertising and notification will be carried out, including information to be included on Council's website, content of notification to councillors, content of notification letters, advertisements in the local paper and erection of notification signs at a property.

Chapter 6 of the DCP specifies the acceptable forms of written submissions and sets controls for the manner in which Council will respond to written submissions.

# CONSULTATION

Consultation with the community will occur through the period of public exhibition.

# FINANCIAL CONSIDERATIONS

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

However, considerable cost savings are expected as a result of the rationalized notification system proposed, including in terms of staff time.

# CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Draft DCP 56 has been prepared in consultation with staff in the Development and Regulation, Corporate and Communication and Planning and Environment Departments.

S03673 27 October 2004

### SUMMARY

Draft DCP 56 has been prepared in accordance with the requirements of the Act and Regulation. The draft DCP is consistent with the KPSO and, unlike the current Notification Policy (in which the KPSO requirements appear to have been misinterpreted), does not require advertising and notification of all works involving heritage items or in conservation areas.

Where notification of applications is not specified in the KPSO, the DCP has been designed so that the scale of notification is appropriate to the development proposed and its likely impact. To further ensure that notification is suitable to the proposal, scope exists for the development assessment Team Leader to increase the extent of notification where warranted.

If adopted, the Draft DCP will appropriately involve the community in the development assessment process, significantly reduce the use of Council resources, including staff time and ensure consistency with all relevant legislation and the KPSO.

## RECOMMENDATION

- A. That Council adopt Draft Development Control Plan No 56 Notification to be placed on public exhibition.
- B. That the Draft DCP 56 be exhibited and notified in accordance with the provision of the Environmental Planning and Assessment Act.
- C. That a report be brought back to Council following the exhibition period.

Katherine Lustig Environmental Planner Antony Fabbro Manager Urban Planning

Leta Webb Director **Planning & Environment**  Michael Miocic Director Development & Regulation

#### Attachments: Development Control Plan No 56 - Notification

S02466 1 November 2004

# ANALYSIS OF LAND & ENVIRONMENT COURT COSTS 1ST QUARTER 2004/2005

# **EXECUTIVE SUMMARY**

PURPOSE OF REPORT:	To provide information in relation to proceedings to which Council is a party in the Land and Environment Court for the quarter ended September 2004, including appeals commenced, costs incurred by Council and outcomes.
BACKGROUND:	An applicant may commence proceedings in the Land and Environment Court for an application which has either been refused by Council or is deemed to have been refused. An appeal may also be commenced in relation to conditions imposed in relation to consent granted by Council.
COMMENTS:	For the quarter ended September 2004, Council's legal costs and associated expenses in relation to Land & Environment Court matters were \$274,000. This compares favourably to the year to date budget of 343,750.
<b>RECOMMENDATION:</b>	That the analysis of Land & Environment Court costs for the first quarter 2004 be received and noted.

S02466 1 November 2004

# PURPOSE OF REPORT

To provide information in relation to proceedings to which Council is a party in the Land and Environment Court for the quarter ended September 2004, including appeals commenced, costs incurred by Council and outcomes.

## BACKGROUND

Pursuant to the *Environmental Planning and Assessment Act* 1979, an applicant may commence proceedings in the Land and Environment Court in respect of an application for which Council was the relevant consent authority, and which has either been refused by Council, or is deemed by the Act to have been refused (a development application is deemed to have been refused if it has not been determined within a period of 40 days, or such longer period that may be calculated in accordance with the Act). An appeal may also be commenced in relation to conditions imposed in relation to an approval granted by Council. Council is a respondent to such proceedings.

Under Section 428 of the *Local Government Act* 1993, Council is required to report legal costs, and the outcome of each case in its Annual Report.

This report is in a revised format compared to previous quarterly reports to Council on this subject. This has been done to provide information to Council that is more informative in the context of the revised Practice Directions of the Court which commenced in February 2004.

# COMMENTS

### **APPEALS LODGED**

In the first financial quarter ended 30 September 2004, there were 48 new appeals lodged in respect of development applications with the Land and Environment Court. This represents an increase in the number of appeals compared to previous periods. The number of appeals received in prior years is as follows:

Financial year	Number of appeals received (whole year)
2001/2002	75
2002/2003	76
2003/2004	128
2004/2005 @ 30 September	48

#### Item 14

#### S02466 1 November 2004

The revised procedures in the Land and Environment Court, which commenced in February 2004 and have significantly streamlined appeal procedures and reduced timeframes, may be a factor which has encouraged more applicants to lodge appeals with the Court.

Thirty three of the fourty eight new appeals were in relation to deemed (as opposed to actual) refusal of an application. Despite an overall increase in the number of appeals, this proportion (69%) represents a reduction in percentage of deemed refusal appeals compared to earlier periods. The percentage of deemed refusal appeals in the year 2003-2004 was 77%.

Appeals commenced in the first quarter ended September 2004 are made up of the following categories of development:



The larger categories are appeals in respect of dual occupancy development (51%) and subdivisions (27%). It should be noted that all of the subdivision appeals represented above were in respect of sites which are also the subject of dual occupancy development proposals.

The "Other" category in the above chart comprises single dwellings, additions and alterations, fences, demolition, and a telecommunications structure.

#### COSTS

During the first quarter of the 2004/2005 financial year, Council expended \$274,000 on legal costs and associated expenses in relation to Land & Environment Court matters. This is \$69,750 less than the year-to-date budget of \$343,750, and \$194,000 less than the same period in 2003/2004.

These costs include legal fees, fees charged by consultants retained as expert witnesses, and other costs incurred as a result of Council's role in the proceedings. In addition to expenditure on appeals, a further amount of \$9,300 was spent on expert legal advice regarding development assessment matters.

Legal Costs and Associated Expenses 2001/2002 - 2004/2005 as at 30 September 2004					
Financial Year	1st quarter September	2nd quarter December	3rd quarter March	4th quarter June	
2001/2002 (75 appeals lodged)	\$420,000	\$423,000	\$500,000	\$761,000	
2002/2003 (76 appeals lodged)	\$302,000	\$452,000	\$665,000	\$833,000	
2003/2004 (128 appeals lodged)	\$468,000	\$378,000	\$605,000	\$754,000	
2004/2005 (48 appeals lodged)	\$274,000	-	-	-	

The above table indicates that despite an increasing number of appeals, there has been a reduction in costs incurred compared to the same period in the previous year. Costs for the period October 2003 to September 2004 were \$407,000 less than in the period October 2002 to September 2003.

Factors which may be regarded as contributing to this reduction in costs are:

- More efficient processing of development applications that are subject to deemed refusal • appeals so that they are determined at an earlier stage of the Court proceedings;
- More efficient management of the process of instructing Council's external legal • representatives;
- Faster progress and determination of appeals by the Court as a result of the revised practice • directions.

A total of \$48,500 was incurred in relation to 14 matters that commenced in the first quarter of 2004/2005. The balance relates to appeals that were commenced prior to 1 July 2004.

#### SUMMARY BY WARD

A summary of Land & Environment Court costs by Ward is shown in the following table.

Land & Environment Court costs by Ward as at quarter ended September 2004				
Comenarra	\$15,407	5.6%		
Gordon	\$57,621	21.1%		
Roseville	\$57,354	20.9%		
St Ives	\$70,393	25.7%		
Wahroonga	\$73,272	26.7%		
Total Costs	\$274,047	100.0%		

#### OUTCOMES

At an early stage of each appeal, Council, as respondent, is required to file with the Court a Statement of Issues identifying any issues concerning a proposed development which the Council asserts as warranting refusal of the development, or alternatively, that may be addressed by way of conditions of approval.

In cases where issues raised by Council are capable of resolution by the provision by the applicant of additional information, or amendment of the proposal, it is the Court's expectation that this should occur. The Court's current practice of appointing a Court-appointed expert witness, rather than allowing the parties to call their own expert evidence, strongly encourages this.

In this context, any of three outcomes can be regarded as favourable, namely:

- 1. If the appeal is in relation to a deemed refusal of an application which, upon assessment, is appropriate for approval: that the development is determined by Council, allowing the appeal to be discontinued by the applicant and avoiding as much as is practicable the incurring of unnecessary legal costs;
- 2. If the issues raised by Council are capable of resolution by the applicant providing further information, or amending the proposal: that this occurs, so that development consent should be granted, either by Council or the Court;
- 3. If the issues raised by Council are either not capable of resolution, or the applicant declines to take the steps that are necessary to resolve them: that the appeal is either discontinued by the applicant, or dismissed by the Court.

#### Item 14

# S02466

1 November 2004

19 appeals were resolved during the period 1 July 2004 to 30 September 2004. The following diagram illustrates the outcomes of those proceedings:



As indicated, almost half (47%) of the appeals concluded were either discontinued by the applicant or refused by the Court outright. Of the other appeals, the proposals in almost all cases were subject to significant amendment to address some or all of the issues raised by Council prior to approval by the Court.

In future, revised reporting requirements from the law firms representing Council will enable outcomes to be reported in more detail in relation to degree of amendment made to proposals to resolve issues raised by Council, i.e. minor, moderate or substantial.

A single matter, represented by the smallest (5%) segment of the above diagram, was approved by the Court without significant amendment from the original proposal, and in the absence of General Terms of Approval issues by DIPNR, which would have been required for Council to be able to issue a valid development consent for the proposed dual occupancy.

# CONSULTATION

Not applicable.

# FINANCIAL CONSIDERATIONS

Land & Environment Court legal costs form part of Council's recurrent operating budget.

S02466 1 November 2004

# **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

This report has been developed with input from Council's Corporate Lawyer, Finance and Business Development and Development and Regulation.

### SUMMARY

For the first quarter ended September 2004 Council has expended \$274,000 on legal costs and associated expenses in relation to Land & Environment Court matters. This compares to the year-to-date budget of \$375,000, a surplus of \$69,750.

## RECOMMENDATION

That the analysis of Land & Environment Court Costs for the first quarter of the financial year 2004/2005 be received and noted.

Mellissa Crain Manager Business Development John McKee Director Finance & Business

Jamie Taylor Corporate Lawyer Michael Miocic Director Development and Regulation

Attachments: Individual Case Recommendations September 2004 (Confidential).

S03324 25 October 2004

# NOTICE OF MOTION

# **COUNCIL COMMITTEES**

#### Notice of Motion from Councillor E Malicki dated 25 October 2004.

I move that;

All Council Committees, Informal or Community, be open to Press and Public except for the closure conditions of the Local Government Act. I further move that Minutes be taken of every Council Committee and that these be available on Council's website.

## RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Elaine Malicki Councillor for Comenarra Ward

# NOTICE OF MOTION

# **E-NOTIFICATION OF DA'S**

#### Notice of Motion from Councillor L Bennett dated 1 November 2004.

I move that:

- A. The General Manager brings a report to Council on e-notification of DA's with special reference to the model adopted by Pittwater Council. Such a report to include detailed costings of the introduction and running of such a service.
- B. Options to deal with problems relating to the notification of residents living in apartment buildings, S.96 applications and changes to heritage items be presented to the Planning Committee
- C. That Council consideration of the draft DCP for Notification be deferred pending the completion of the processes in parts A and B of the motion.

### RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Laura Bennett Councillor for St Ives Ward