

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 24 JULY 2007

Present: The Mayor, Councillor N Ebbeck (Chairperson) (Wahroonga Ward)
Councillors A Andrew & E Malicki (Comenarra Ward)
Councillors L Bennett & T Hall (St Ives Ward)
Councillor A Ryan (Gordon Ward)
Councillors M Shelley & J Anderson (Roseville Ward)

Staff Present: General Manager (John McKee)
Director Corporate (John Clark)
Director Development & Regulation (Michael Miocic)
Manager Development Assessment Services (Matthew Prendergast)
Director Operations (Greg Piconi)
Director Strategy (Steven Head)
Manager Urban Planning (Antony Fabbro)
Director Community (Janice Bevan)
Senior Governance Officer (Geoff O'Rourke)
Minutes Secretary (Christina Randall-Smith)

The Meeting commenced at 7.03pm

The Mayor offered the Prayer

Councillor Shelley arrived

255 APOLOGIES

File: S02194

Councillor I Cross tendered an apology for non-attendance [family reasons] and requested leave of absence.

Councillor M Lane tendered an apology for non-attendance [prior commitment] and requested leave of absence.

Resolved:

(Moved: Councillors Hall/Andrew)

That the apologies by Councillors I Cross & M Lane for non-attendance be accepted and leave of absence be granted.

CARRIED UNANIMOUSLY

DECLARATIONS OF INTEREST

The Mayor adverted to the necessity for Councillors and staff to declare a Pecuniary Interest/Conflict of Interest in any item on the Business Paper.

No such interest was declared.

256 CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499

Resolved:

(Moved: Councillors Andrew/Anderson)

That in accordance with the provisions of Section 10 of the Local Government Act 1993, all officers' reports be released to the press and public, with the exception of:

C.1 **Status of Negotiations - 9, 15 & 17 Dumaresq Street, Gordon -** *(Section 10A(2)(c) - Information that would confer a commercial advantage)*

Report by Director Strategy, Director Corporate & Commercial Services
Co-ordinator dated 18 July 2007

CARRIED UNANIMOUSLY

DOCUMENTS CIRCULATED TO COUNCILLORS

The Mayor adverted to the documents circulated in the Councillors' papers and advised that the following matters would be dealt with at the appropriate time during the meeting:

Councillors **Investment Funds** - Memorandum by Director Corporate dated
Information: 13 July 2007 in answer to a Question Without Notice by Councillor
Laura Bennett.

**Provision of List of Council-owned Heritage properties regarding
Conservation Management Plans or Strategies** - Memorandum by
Manager Urban Planning dated 11 July 2007 in answer to a Question
Without Notice by Councillor Jennifer Anderson.

Resident Feedback Register - Memorandum by General Manager
dated 16 July 2007 in answer to a Question Without Notice by
Councillor Elaine Malicki at the Ordinary Meeting of Council held on
19 June 2007.

Late Items: **Minutes of Ordinary Meeting of Council held 17 July 2007 -**
Minutes numbered 224 to 254.

102 Rosedale Road, St Ives - Memorandum by Director Corporate dated 20 July 2007 regarding advice from Council's Solicitors that the Motion may continue to be debated after the Notice of Motion was terminated by the Mayor at the Ordinary Meeting of Council meeting held on 17 July 2007.

102 Rosedale Road, St Ives - Notice of Motion by Councillor Tony Hall dated 9 July 2007.

Refer MM.1: Graffiti - Minute by the Mayor, Councillor Nick Ebbeck dated 20 July 2007.

Refer GB.2: 31 to 37 Kissing Point Road, Turramurra - Memorandum by Director Development & Regulation dated 24 July 2007 regarding the front fence of the property, street tree planting & a new Condition to be included in the Recommendation.

CONFIRMATION OF MINUTES

257 **Minutes of Ordinary Meeting of Council**

File: S02131
Meeting held 17 July 2007
Minutes numbered 224 to 254

Resolved:

(Moved: Councillors Andrew/Hall)

That Minutes numbered 224 to 254 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR

258 **Graffiti**

File: S04840

Council expends approximately \$120,000 per year on vandalism repairs and the majority of these funds are spent on cleaning up graffiti on public property. Whilst this assists in improving the appearance of public places, it does not address the real

issue of graffiti which is present on private property, particularly around our shopping and business centres.

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

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

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

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

Resolved:

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

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

- An initial clean up of our Town Centres
 - Education and literature support
 - Environmentally safe
 - Heritage aware
 - Signed vehicles
 - PDA controlled internet based
 - Full reporting facilities
 - Fully licensed
 - Options as to the physical location of graffiti-free zones around our Centres
 - State Government property
- B. That this report include all costs and possible funding sources for this program.
- C. That the local Police Commands be requested to re-commence the tag register system introduced in 1999 to identify continuing offenders.
- D. That the report include information as to the methods used by other Local Councils recognized as being "best practice".

CARRIED UNANIMOUSLY

GENERAL BUSINESS

259

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

File: MOD0040/07

Ward: St Ives

Applicant: Mrs C Jenkins

Owners: Mrs C Jenkins & Mr J Jenkins

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

Resolved:

(Moved: Councillors Hall/Bennett)

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

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

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

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

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

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

S.96 Plan No.	Drawn by	Dated	Received date
DA 03(A), DA 04(A) and DA 05(B)	Mike Foran Architectural Design Services	5 July 2007	11 July 2007

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

2. Pool pump and filter box

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

Reason: To ensure the amenity of neighbours.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**260 102 Rosedale Road, St Ives**

File: P57397

Notice of Motion from Councillor T Hall dated 9 July 2007.

On 26 September 2006, Council resolved Minute No 386 to determine a course of action regarding the purchase of 102 Rosedale Road St Ives. The purchase is to ensure the ongoing protection of the significant ecological community contained within the land.

The General Manager has undertaken negotiations with the owners of the land within the delegated authority.

The owners of the land have refused all offers submitted by Council and have now lodged a Development Application for a single residential development on the land.

Given the significance of the ecological community contained within the land, Council needs to consider an alternative course of action to effect the acquisition and conservation of the land.

This could be best achieved by Council authorising the General Manager to further negotiate with the owners of the land or their representatives to progress this matter and advise Council as a matter of urgency the results of discussions for its consideration.

I move:

"That Council authorise the General Manager to undertake further discussions with the owners of the land or their representatives and report the matter to Council.

The General Manager seeks further opportunities, commitment, resources and partnership from Commonwealth and State agencies in relation to the acquisition and conservation of this land and these matters are included in reporting to Council.

That consideration of this matter by Council be held in Confidential (Section 10A(2)(c) – Information that would confer a commercial advantage)".

Resolved:

(Moved: Councillors Hall/Anderson)

That consideration of the above Notice of Motion be deferred.

*For the Resolution: The Mayor, Councillor N Ebbeck, Councillors
Andrew, Hall, Malicki, Ryan, Shelley & Anderson*

Against the Resolution: Councillor Bennett

GENERAL BUSINESS (cont)**261 Promoting Better Practice Review**

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File: S06054

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

Resolved:

(Moved: Councillors Shelley/Ryan)

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

*For the Resolution: The Mayor, Councillor N Ebbeck, Councillors
Andrew, Bennett, Malicki, Ryan, Shelley & Anderson*

Against the Resolution: Councillor Hall

262 Investment & Loan Liability as at 30 June 2007

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File: S05273

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

Resolved:

(Moved: Councillors Shelley/Ryan)

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

For the Resolution: *The Mayor, Councillor N Ebbeck, Councillors
Andrew, Hall, Malicki, Ryan, Shelley & Anderson*

Against the Resolution: *Councillor Bennett*

263 **31 to 37 Kissing Point Road, Turramurra - Subdivide 3 Allotments into
5 Allotments**

File: DA0096/07

Ward: Comenarra

Applicant: Brett Davis, Lipman Properties P/L

Owner: Controline Air products P/L

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

Resolved:

(Moved: Councillors Shelley/Malicki)

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

APPROVAL – SEPP 1 REQUIRED

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

AND

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

Approved architectural plans and documentation in accordance with plans (new development)

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

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

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

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

Inconsistency between documents

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

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

Special Conditions:

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

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

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

Contamination Report by GHD dated November 2006, submitted to Council on 9 May 2007.

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

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

Reason: To protect the environment

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

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

CONDITIONS IMPOSED BY THE DEPARTMENT OF NATURAL RESOURCES

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

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

General Terms of Approvals (GTAs)

Abbreviations and terms.

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

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

VMP is a Vegetation Management Plan.

WP is a Works Plan

8. Before any works are commenced within 40m of any watercourse on or near the site, a Part 3A Permit must be obtained from the Department of Natural Resources (the Department).
9. Works are to be carried out in accordance with the plans and documents presented to the Department for the subject Development Application and these conditions.

10. All documentation and plans and bonds required as part of these conditions must be prepared and provided to the Department prior to the issuing of the Part 3A Permit.
11. All engineering, other structural works or natural landscaping proposed must be designed, constructed and operated by suitably qualified professionals, recognised in that specialised field. For any VMP, this relates particularly to bushland rehabilitation practices, and for any WP, this relates particularly in natural stream processes, design and rehabilitation practices. The designs and construction methods and activities are to result in NIL or minimal harm to aquatic and riparian environments and not to cause erosion, sedimentation, or increase flood levels of Protected Waters.
12. Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse/foreshore environment. These control measures are to be in accordance with the requirements of Council, and best to follow relevant management practices as outlined in the Landcom manual "Managing Urban Stormwater: Soils and Construction - Volume I" (4th Ed., 2004) - the Blue Book", or other suitable control measures to mitigate erosion where conventional measures are not adequate (such as within bed and banks of a watercourse).
13. The Part 3A permit from the Department is issued for works on FREEHOLD land only and is null and void for any works on Crown Land.
14. Evidence of Owners Consent for all works over any lands within 40m of any watercourse is required prior to the issue of the Part 3A permit.
15. In the event that there is an inconsistency between the drawings, other documentation and the conditions herein, the interpretation that will result in the best outcome for the stabilisation of the Site and the subsequent rehabilitation and maintenance of the Site and Protected Land and Protected Waters, is to prevail. Such interpretation is to be applied in consultation with, and with the approval of, the Department.
16. The development is to satisfy all requirements of Council in relation to flooding, drainage, stormwater detention and water quality, but in so doing, must not compromise in any way the form and function of any works, on Protected Waters and in riparian zones required by these conditions.
17. A licence under the Water Act (1912) or the Water Management Act (2000) may also be required from the Department if it is intended to:
 - install a pump for extraction of water from a surface and/or ground water source. The temporary extraction of water for establishment of vegetation in a VMP does not require a licence.
 - construct a dam

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

natural features). Part of the form of the watercourse is to create meanders, suitable pool and riffle sequences, with suitable aquatic and terrestrial habitat.

26. The extent of the rehabilitation / restoration of Protected Land and/or Protected Waters are to be as indicated by a WP for all works that involve any change (including realignment, stabilisation, naturalised enhancement etc) of any watercourse. Rehabilitation / restoration, and watercourse form must be consistent with the Departmental guide: Works and Watercourse Design Guideline.
27. Following the completion of the physical works associated with any watercourse at the Site these works and all associated disturbed areas must be maintained for a period of at least three (3) years after practical completion, consistent with the Departmental guide: Works and Watercourse Design Guideline, particularly the maintenance and reporting criteria.
28. Any crossing structures, including utility crossings and associated works, must be located, designed and constructed consistent with the Departmental guides: Watercourse Crossing Design & Construction Guideline and Pipe and Cable Laying across Watercourses and Riparian Area Guideline. The Department may require a WP depending upon the potential impact upon the watercourse and must be consistent with the Departmental guide: Works and Watercourse Design Guideline. For any retaining walls and sea walls, their location, design and construction must be consistent with the Departmental guide: Works and Watercourse Design Guideline.
29. Any access-ways, (being roads, tracks, cycle-ways, pedestrian pathways or other form of access-way) that may be proposed for the Site, are to be normally located beyond the riparian zones, and be consistent with the Departmental guide: Design and Construction of Paths and Cycle-ways and Access-ways along Watercourses and Riparian Areas Guideline.
30. A permanent physical barrier, (such as a fence, pathway, road etc), to prevent inadvertent damage to riparian zones, is to be placed at their landward extent in all locations, and be consistent with the Departmental guide: How to Prepare a Vegetation Management Plan Guideline.
31. There is to be no permanent or temporary excavation of, or placement of material on, protected land, or anything done that may detrimentally affect the flow of protected waters, and are not to be placed in any area that has existing native riparian vegetation that is identified as part of any riparian zone in any VMP.
32. Documentation that demonstrates a right of access to the site for a sufficient time to enable the full implementation and maintenance of any works, including any VMP and WP, and inspections, is to be provided to the Department by the owner. Such documentation is to be legally binding upon the land and its present and future owners until such time as the implementation and their maintenance of the works, including any VMP and WP are completed, and inspected, as

approved by the Department. The instrument is to be in favour of the current owner or Council.

33. A riparian zone consisting of local native plant species shall be established and maintained in and adjacent to all Protected Waters, including beneath bridges, for their entirety within the Site. The extent of the riparian zones is to be as shown on the Landscape Plan by Site Image dated 2/2/07.
34. All riparian zones at the Site must be rehabilitated where they are affected by, or located adjacent to, or located within the variable width of the riparian zone, of, any works on Protected Land that require a Part 3A permit, for the purposes of aiming at naturalised bed and bank stabilisation and giving adequate space for the natural functioning of the watercourse.
35. A VMP for Site rehabilitation that demonstrates protection of any remnant local native riparian vegetation at the Site and restore any riparian zones disturbed or otherwise affected by the development to a state that is reasonably representative of the natural ecotone of the protected waters system, to achieve sound naturalised watercourse and long term riparian area stabilisation and management by the enhancement/emulation of the native vegetation communities of the subject area is to be prepared, and be consistent with the Departmental guide: How to Prepare a Vegetation Management Plan Guideline.
36. Seed and propagule sources are to be from local botanical provenance (regarded as from as close as possible and from the same general habitat (same soil type, distance from watercourse, exposure etc)) is required consistent with the Departmental guide: How to Prepare a Vegetation Management Plan Guideline.
37. The riparian zone (and all areas and activities described in the VMP must be maintained for a period of at least two (2) years after final planting or where other re-vegetation methods are used, two years after plants are at least of tubestock size and are at the densities required by these conditions and with species richness as described in the VMP and three-(3) year minimum for those areas required for access and maintenance relating to any WP and being consistent with the Departmental guide: How to Prepare a Vegetation Management Plan Guideline, particularly the maintenance and reporting requirements.
38. The Part 3A permit holder must ensure that all works and activities at the Site do not compromise the implementation of the VMP in any way.
39. Any requirements for bushfire asset protection zones, including fire trails, are not to compromise in any way the extent, form or function of the riparian zones. Fuel reduced areas are to be located outside of riparian zones.
40. Any property boundary fence should generally be located beyond the riparian zones and be consistent with the Departmental guide: How to Prepare a Vegetation Management Plan Guideline.
41. As a pre-condition to the granting of any Part 3A permit, the applicant for a Part 3A permit will be required to provide a security deposit (bank guarantee or cash

bond). The security deposit is to cover the cost, as approved by the Department, of completing selected works and activities listed in the previous GTA conditions in accordance with the conditions of the Part 3A permit.

42. Any bank guarantee is to be provided from a bank licensed pursuant to the Banking Act 1959 (0th) and is to be provided in favour of the Department and it must be drawn up in the format required by the Department.

GENERAL ENGINEERING CONDITIONS

Drainage to natural watercourses

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

Reason: To protect the environment.

Stormwater retention

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

Reason: To protect the environment.

Stormwater detention

45. An on-site stormwater detention system must be provided for the driveway / parking area to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47). The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.

Reason: To protect the environment.

Utility service facility

46. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the

Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

Reason: Provision of utility services.

Public infrastructure

47. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

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

Sydney Water Section 73 Compliance Certificate (Part 1)

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

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

Reason: Statutory requirement.

Convex mirror

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

Reason: To ensure safe vehicular access.

GENERAL LANDSCAPING CONDITIONS**No storage of materials beneath trees**

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

Reason: To protect existing trees.

Removal of refuse

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

Reason: To protect the environment.

Approved tree works

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

Schedule**Tree location****Approved tree works**

Jacaranda mimosifolia (Jacaranda)
Adjacent to proposed access driveway Removal

Arecastrum romanzoffianum (Cocco's Palm) x 6
Adjacent to watercourse in Lot 71 Removal

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

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

Arborist's report

53. The trees to be retained shall be inspected, monitored and treated by a qualified arborist during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the arborist to the Principal Certifying Authority are required at the following times or phases of work:

Schedule**Tree/location**

Howea forsteriana (Kentia Palm) grove

Time of inspection

Prior to demolition
Completion of demolition
Prior to regrading
Completion of regrading
Issue of Subdivision Certificate

Reason: To ensure protection of existing trees.

Treatment of tree roots

54. If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced arborist/horticulturist with a minimum qualification of horticulture certificate or tree surgery certificate

Reason: To protect existing trees.

Cutting of tree roots

55. No tree roots of 30mm or greater in diameter located within the specified radius of the trunk(s) of the following, tree(s) shall be severed or injured in the process of any works during the construction period.

Schedule

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

Reason: To protect existing trees.

Hand excavation

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

Schedule

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

Reason: To protect existing trees and vegetation.

Tree planting on nature strip

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

Schedule**Tree/ species****Quantity****Location***Notalaea longifolia* (Mock Olive)

4

Evenly spaced along Kissing Point Rd nature strip

Reason: To provide appropriate landscaping within the streetscape.**Supervision of transplanting**

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

Schedule**Species/from****To***Howea forsteriana* (Kentia Palm) grouping
Centrally located within Lot 71

Riparian planting corridor

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

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

Reason: To protect the environment.**Vegetating steep slopes**

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

Reason: To protect the environment.**CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE:****Driveway crossing levels**

61. Prior to issue of the Construction Certificate, driveway and associated footpath levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at

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

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

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

Soil and erosion control plan

62. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document "*Managing Urban Stormwater – Soils and Construction, Volume 1*" (2004) . A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47.

Reason: To preserve and enhance the natural environment.

Design of driveway

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

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

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

Design of drainage works

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

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

Verification of drainage easement relocation

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

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

Amendments to approved landscape plan

66. Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved landscape plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

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

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

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

Reason: To ensure adequate landscaping of the site.

Tree protective fencing type galvanised mesh

67. The tree protection fencing shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres in height prior to work commencing.

Reason: To protect existing trees during construction phase.

Landscape establishment bond

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

Fifty percent (50%) of this bond will be refunded upon verification by Council that the landscape works as approved have been satisfactorily completed. The balance of the bond will be refunded 3 years after the initial satisfactory inspection, where landscape works have been satisfactorily established and maintained.

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

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

Tree protection bond

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

Schedule

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

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

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

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

Landscape plan/native species

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

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

Reason: To enhance native vegetation and promote biodiversity.

CONDITIONS TO BE SATISFIED DURING WORKS:

Approved plans to be on site

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

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

CONDITIONS TO BE SATISFIED PRIOR TO WORKS COMMENCING:

Notice to be given prior to demolition or excavation

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

Reason: Statutory requirement.

Notice of commencement

73. At least 48 hours prior to the commencement of any development or excavation works commencing, a written Notice of Commencement of Building or Subdivision Work form and appointment of the Principal Certifying Authority form shall be submitted to Council at least 48 hours prior to works commencing.

Reason: Statutory requirement.

Notification of builder's details

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

Reason: Statutory requirement.

Dilapidation public

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

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

Construction and traffic management plan

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

1. A plan view of the entire site and frontage roadways indicating:

- dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways
- turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site
- the locations of proposed work zones in the frontage roadways
- location of any proposed crane and concrete pump and truck standing areas on and off the site
- a dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected
- an on-site parking area for employees, tradespersons and construction vehicles as far as possible

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

All traffic control plans must be in accordance with the RTA publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the

development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

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

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

Light traffic roads and those subject to a load or height limit must be avoided where alternate routes exist.

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

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

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

The plan must provide measures for minimising construction related traffic movements during school peak periods.

For those construction personnel that drive to the site, the applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

The construction and traffic management plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation.

As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council's Development Engineer. Written acknowledgment from Council's Engineer shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains

the environmental amenity and ensures the ongoing safety and protection of people.

Work zone

77. If a works zone is proposed, the applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the work zone. Work zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site.

If the work zone is approved by the Local Traffic Committee, the applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit this to the Principal Certifying Authority prior to commencement of any works on site.

Where approval of the work zone is resolved by the Committee, the necessary work zone signage shall be installed (at the cost of the applicant) and the adopted fee paid prior to commencement of any works on site. At the expiration of the work zone approval, the applicant is required to remove the work zone signs and reinstate any previous signs at their expense.

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

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

Tree protection fencing

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

Schedule

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

Reason: To protect existing trees during the construction phase.

Tree protection signage

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

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

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

Reason: To protect existing trees during the construction phase.

Tree protection mulching

80. Prior to works commencing and throughout construction, the area of the tree protection zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood.

Reason: To protect existing trees during the construction phase.

Tree Fencing Inspection

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

Reason: To protect existing trees during the construction phase.

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

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

The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property"

includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bush land, and similar structures or features on road reserves or any adjacent public place.

Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure F" lodged with the Council prior to any earthworks or construction commencing. This undertaking by the Council does not absolve the applicant or builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.

Reason: To maintain public infrastructure.

Section 94 contribution – residential development

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

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

The contribution shall be paid to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index. Prior to payment, you are advised to check the contribution amount required with Council.

Reason: To ensure the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of the development.

CONDITIONS TO BE SATISFIED DURING WORKS:**Prescribed conditions**

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

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

Reason: Statutory requirements

Demolition, excavation and construction work hours

85. Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.030pm Monday to Friday and 8.00am to 12.00pm Saturdays. No work and no deliveries are to take place on Sundays and public holidays.

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

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

Construction noise

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

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

Site notice

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

The site notice must:

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

Reason: To ensure public safety and public information.

Dust control

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

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

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

Use of road or footpath

89. For the purpose of safety and amenity of the area, during excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice,

to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

Reason: To ensure safety and amenity of the area.

Guarding excavations

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

Reason: To ensure public safety.

Toilet facilities

91. During excavation, demolition and construction phases, toilet facilities are to be provided, on/within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Reason: Statutory requirement.

Construction signage

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

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m²
- are removed within 14 days of the completion of all construction works

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

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

Completion of landscape works

93. Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent.

Reason: To ensure that the landscape works are consistent with the development consent.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE:**Driveway work-as-executed**

94. The applicant must submit works-as-executed plans for the driveway. The following certificates from the relevant engineers are to be submitted with the plans:
- Certification that the driveway and vehicular crossing have been constructed in accordance with the approved plans and specifications.
 - Certification that grades comply with AS2890.1: 2004 Off street car parking;
 - Certification that the pavement is adequate for a fully laden concrete truck.

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

Reason: To protect the environment.

Infrastructure repair – subdivision works

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

Reason: To protect public infrastructure.

Provision of services

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

Reason: Access to public utilities.

Sydney Water Section 73 Compliance Certificate (part 2)

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

advises that a Section 73 Certificate is not required for the proposed development, written confirmation of this advice is to be provided.

Reason: Statutory requirement.

OSD positive covenant/restriction

98. The applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on site. The terms of the instruments are to be generally in accordance with the Council's "terms of Section 88B instrument for protection of on-site detention facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. The location of the on-site detention facilities for all dwellings is to be denoted on the final plan of subdivision.

Reason: To protect the environment.

Submission of 88B instrument

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

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

Work-as-Executed plans

100. Prior to issue of the Subdivision Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE plan(s) must show the as-built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked **in red** on a copy of the Principal Certifying Authority stamped construction certificate stormwater plans.

Reason: To protect the environment.

Submission of plans of subdivision

101. For endorsement of the subdivision certificate, the applicant shall submit an original plan of subdivision plus six (6) copies, suitable for endorsement by

Council. The following details must be submitted with the plan of subdivision and its copies:

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

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

Reason: Statutory requirement.

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

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

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

Tree protection – (Riparian zone) Section 88b instrument

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

Reason: To protect the environment

104. The creation of a Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the area of land beneath the canopy of the following tree/s for a specified radius in metres from the trunk of that tree, the

terms of which state that any excavations, soil level changes or construction works are prohibited.

Tree**Location****Radius**

Howea forsteriana (Kentia Palm) grove

Between existing car park and watercourse on Lot 70 and Lot D
3.0m

Reason: To protect existing vegetation.

Retention of front fence

105. The existing front fence to Kissing Point Road is to be repaired and retained in the manner depicted in Drawing No LDA 101 – Issue C, dated 02/02/2007.

CARRIED UNANIMOUSLY

264

Conduct Committee

File: S04462

To establish a permanent Conduct Committee.

*Following a Motion moved by Councillors Malicki & Bennett,
which was CARRIED UNANIMOUSLY
Council moved to the Ante Room with Press & Public excluded
to discuss confidential information concerning specific individuals*

Resolved:

(Moved: Councillors Hall/Ryan)

- A. That Council establish a permanent Conduct Committee, as proposed.
- B. That the remuneration offered to independent members with legal qualifications be reviewed by the General Manager.

*For the Resolution: The Mayor, Councillor N Ebbeck, Councillors
Andrew, Hall, Ryan & Anderson*

Against the Resolution: Councillors Bennett, Malicki & Shelley

*The above Resolution was CARRIED as an Amendment to the Original Motion.
The Original Motion was:*

(Moved: Councillors Bennett/Malicki)

- A. *That Council seek to establish a panel of lawyers and the General Manager is to draw on that panel, for the independent member with legal qualifications. Preference be given to legal members with Administrative Law expertise.*
- B. *That independent members be requested to disclose any membership of a political party and, any positions held within that party.*
- C. *That the remuneration offered to independent members with legal qualifications be reviewed by the General Manager.*

PERSONAL EXPLANATION

Councillor Tony Hall gave a Personal Explanation in relation to his understanding of the concept of natural justice.

265 **Request for Legal Assistance - Bankstown City Council**

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File: S02046

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

Resolved:

(Moved: Councillors Shelley/Andrew)

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

CARRIED UNANIMOUSLY

266 **Heritage Advisory Committee - Minutes of 16 April 2007**

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File: S03816

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

Resolved:

(Moved: Councillors Anderson/Shelley)

That Council receive and note the Minutes from the Heritage Advisory Committee Meeting held on 16 April 2007.

CARRIED UNANIMOUSLY

QUESTIONS WITHOUT NOTICE**267 Internal Ombudsman**

File: S04462

Question Without Notice from Councillor T Hall

I refer to the article in the recent press (SMH 21 July 2007) about Council Internal Ombudsmen and I was disturbed about the wide differences of administration of the Office of Internal Ombudsman in that article in some Councils.

Would the General Manager provide more information on this Council position and whether it should be widened and given more resources please?

Answer by the General Manager

I am happy to provide Councillors with the current job description for the Ombudsman. I would say that in terms of additional resources in accordance with the structure that Council adopted last year, the position of Internal Auditor is currently being advertised and that will report to the Ombudsman. So there will be an additional resource in that office.

268 Confidential Meeting regarding Development Applications

File: S02355

Question Without Notice from Councillor M Shelley

Would the Mayor and/or General Manager advise when the confidential meeting is to take place regarding my concerns over the DAs which were approved by Staff when I had called them to Council?

Answer by the Mayor

The General Manager and myself will be back in contact with you shortly.

269 Bland Shire Costs

File: S05745

Question Without Notice from Councillor A Ryan

Councillor Malicki - In relation to Bland Shire Council, did you set a sunset clause within which Ku-ring-gai continues to assist them?

Answer by Councillor Malicki

I don't believe there is a sunset clause but obviously once the situation has reversed in terms of drought assistance, there is no point in continuing. However, the General Manager is certainly aware because I have raised the issue with him that the Mayor of Bland Shire appears to want a different kind of relationship and it is a good time to point out to Council that it appears though I don't believe we have been formally notified that the Bland Shire Councillors and Directors will be coming to Sydney for their management planning and I assume that if they have a different sort of relationship in mind, they will raise that with the Mayor and General Manager at that time. I didn't think it was appropriate for me to be discussing that with anybody.

The answer is No, there was no sunset clause.

270 Bland Shire - Printing Costs

File: S05745

Question Without Notice from Councillor A Ryan

Can the General Manager tell Council what the \$2,000 of printing was specifically for and indicative ongoing costs likely to be incurred annually?

Answer by the General Manager

The Director Corporate or Director Community will take that on notice and advise Councillors.

271 Congratulations to Staff & External Groups - e-Recycling

File: S04262

Question Without Notice from Councillor A Andrew

Would the General Manager pass on his congratulations to the Staff and external groups involved in e-recycling held at the Bicentennial Park last weekend?

Answer by the General Manager

Yes, I will be happy to do that.

272 **Catering Expenditure for Councillors**

File: S04423

Question Without Notice from Councillor L Bennett

Can Council expenditure on refreshment/food for Councillors over the last 3 financial years be supplied?

Answer by the General Manager

The Director Corporate will provide that information.

273 **Council-Owned Heritage Properties**

File: S04325

Question Without Notice from Councillor J Anderson

In the Greens of this evening's Business Papers is the answer to my Question Without Notice regarding a list of Council-owned Heritage properties. Council's Heritage Officer informed the Heritage Advisory Committee at its last meeting that in addition to those listed he believes one or two additional items should be investigated for addition to the list. I believe these might be sets of gates. Would the General Manager please clarify this?

Answer by the Director Strategy

We will check the details on that list and report back to Councillors.

274 **Review of Footpath Priority - Wandella Avenue, Roseville**

File: 88/06185/04

Question Without Notice from Councillor M Shelley

Would the Director Operations review the footpath priority for Wandella Avenue, Roseville connecting via Victoria Street, Roseville College, the Ku-ring-gai Arts Centre and the Roseville Lawn Tennis Club to Boundary Street and the major bus routes?

Answer by the Director Operations

I will take that on notice and come back but we are looking a review of the priority system and that will come back in a report to Council in August and I will include that in the response to the Question Without Notice.

275 **Congratulations to Staff - e-Zone Launch**

File: S04262

Question Without Notice from the Mayor, Councillor N Ebbeck

Could the General Manager please pass on our congratulations to all that were involved with the e-zone launch at our Libraries and through the Director Community, thank you Mr General Manager?

Answer by the General Manager

Yes.

*Council resolved itself into Closed Meeting
with the Press and Public Excluded to deal with the following item:*

276 **Status of Negotiations - 9, 15 & 17 Dumaresq Street, Gordon**
(Section 10A(2)(c) - Information that would confer a commercial advantage)

File: S05930

Report by Director Strategy, Director Corporate & Commercial Services Co-ordinator dated 18 July 2007.

Councillor Malicki departed during discussion

Resolved:

(Moved: Councillors Ryan/Bennett)

- A. That Council agree to purchase the properties at 9, 15 & 17 Dumaresq Street Gordon, for the purpose of open space in accordance with the agreed value.
- B. That the General Manager and Mayor be delegated authority to negotiate any leases relating to the site and the execution of contracts of sale.

*For the Resolution: The Mayor, Councillor N Ebbeck, Councillors
Andrew, Bennett, Ryan, Shelley & Anderson.*

Against the Resolution: Councillor Hall

The General Manager adverted to the consideration of the matter referred to in the Minute numbered 276, and to the resolution contained in such Minute.

The Meeting closed at 9.40pm

The Minutes of the Ordinary Meeting of Council held on 24 July 2007 (Pages 1 - 41) were confirmed as a full and accurate record of proceedings on 14 August 2007.

General Manager

Mayor / Chairperson