

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 25 SEPTEMBER 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 I Cross (Wahroonga Ward)
Councillors M Lane & A Ryan (Gordon Ward)
Councillor 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)
Strategic Planner (Craig Wyse)
Manager Sustainability & Natural Environments (Peter Davies)
Director Community (Janice Bevan)
Senior Governance Officer (Geoff O'Rourke)
Minutes Secretary (Christina Randall-Smith)

The Meeting commenced at 7.04pm

The Mayor offered the Prayer

351 **APOLOGIES**

File: S02194

Councillor M Shelley tendered an apology for non-attendance (family/business commitment) and requested leave of absence.

Resolved:

(Moved: Councillors Hall/Ryan)

That the apology by Councillor M Shelley 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.

The Mayor, Councillor Nick Ebbeck and Councillors Anita Andrew, Ian Cross, Michael Lane and Elaine Malicki declared a Pecuniary Interest under Section 449(3) of the Act in GB.13 - Draft Bushfire Prone Land Map (2007).

The Minister of Local Government, Paul Lynch, granted all five Councillors dispensation from their pecuniary interest responsibilities in relation to this matter. This allowed a quorum to be maintained and the matter to be dealt with by Council.

352 **CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING**

File: S02499

Resolved:

(Moved: Councillors Hall/Lane)

- A. That in accordance with the provisions of Section 10 of the Local Government Act 1993, the following Officer's report be released to the press and public:

Marian Street Theatre Feasibility Study - Consultant's Proposals

- B. That in accordance with the provisions of Section 10 of the Local Government Act 1993, the attachments to the following report remain confidential:

C.1 **Marian Street Theatre Feasibility Study - Consultant's Proposal -**
[Section 10A(2)(c) - Information that would confer a commercial advantage]

- C. That in accordance with the provisions of Section 10 of the Local Government Act 1993, the following Officer's report & attachment be not released to the press and public:

C.2 **Salary Increase Negotiations -** *[Section 10A(2)(a) - Personnel matters concerning particular individuals]*

Report by Director Corporate dated 18 September 2007 & Memorandum dated 24 September 2007.

CARRIED UNANIMOUSLY

*A Motion was moved by
Councillors Hall & Anderson that 2 speakers
on NM.1 - BMX Facility be permitted to address Council
during the General Address & was
CARRIED UNANIMOUSLY*

ADDRESS THE COUNCIL

The following members of the public addressed Council on items not on the Agenda:

J Harwood
S Dreyfus
J Dove

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 Additional

Agenda Information: **Refer NM.3 - 134 Eastern Road, Wahroonga -**
Background Information to Councillor Cross's Notice of Motion dated 12 September 2007

Refer NM.4 - Off-Leash Dog Area Turramurra - Background Information - Location Sketch in relation to Councillor Cross's Notice of Motion dated 12 September 2007.

Refer NM.5 - Reclassification of Council Land - Background Information to Councillor Malicki & Councillor Bennett's Notice of Motion dated 16 September 2007.

Memorandums: **Refer GB.4 - 3 to 7 Lorne Avenue, Killara - Demolition of Dwellings & Construction of a Residential Flat Building (60 Units), Car Park & Strata Subdivision -** Memorandum by Director Development & Regulation dated 24 September 2007 regarding recommendation corrections to Conditions 1, 44 & 53.

Refer GB.5 - 12 Woonona Avenue, Wahroonga - Demolition of Existing Structures & Construction of a Residential Flat Building - Memorandum by Director Development & Regulation dated 25 September 2007 in relation to correspondence from the Department of Planning - Heritage Office received by Council on 25 September 2007

Refer GB.7 - Election of Chairpersons/Deputy Chairpersons - 2006 to 2007 Committees & Advisory Committees - Memorandum by General Manager dated 24 September 2007 regarding an amendment to the Officer's recommendation regarding the Charter of the Facilities Committee.

Refer GB.13 - Bushfire Prone Land Map (2007) - Memorandum by Director Strategy dated 25 September 2007 regarding a late submission from the North Wahroonga Peninsula Residents Protest Group.

Refer GB.14 - Renewal of Bushland, Catchments & Natural Areas Reference Group Membership - Memorandum by Director Strategy dated 24 September 2007 regarding a correction to the Charter in relation to the name of the Ku-ring-gai Bat Conservation Society Inc.

Draft Charter of the Sustainability Reference Group

CONFIRMATION OF MINUTES353 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 4 September 2007
Minutes numbered 338 to 350

Resolved:

(Moved: Councillors Hall/Ryan)

That Minutes numbered 338 to 350 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR354 **Lead On Ku-ring-gai**

File: S05386

Since my election to Council in 2004, I have promised myself and the community I would support the youth of Ku-ring-gai. I unconditionally support KYDS and sports facilities, and I also assisted in the Drug and Alcohol Forum which Council hosted in 2006. This event was the catalyst for a number of youth related activities undertaken by Council's Youth Services, including a Safe Partyng Forum and the Drug Action Week Band Night.

My belief that community leaders need to assist our youth is stronger than ever, and in many ways our own consultation through the Ku-ring-gai Council Community Plan shows there are areas for improvement in the youth services provided in Ku-ring-gai.

In addition to proving direct services to assist those in need of help, we should also be developing preventative programs, to encourage our younger members of the community to get involved - programs that will provide the learning opportunities for young people to experience real life working situations.

For the past 3 years I have been actively supporting members of the community in developing a youth based program that builds the capacity of a community through structured activities for young people. This program has been purpose-built to incorporate all sections of the community, including the business sector, to provide practical experience for young people through real-life projects and community activities.

This program is called Lead On Australia.

Lead On Australia is a community building model – or community enterprise structure - designed to enable young people to engage and become involved in real life business and community activities. The objectives of Lead On are to not only to develop and broaden the range of skills and experiences for the young people, but also, through involving older people, to raise awareness of the value of the role played by young people in a community.

The vital elements of the Lead On model are:

- Youth Governance
- Community Ownership
- Integration & Diversity
- Mentoring & Role Models

In brief, the Lead On Australia model is about gathering and mentoring a diverse group of young people, developing a range of real-life projects from the broader community (with an emphasis on the business community), and facilitating the outcomes. Essentially it is the activity and relationships from particular projects that builds the connections, skills and confidence for young people in the community.

Recommendation:

- A. That Council provide in principle support for the Lead On Australia Program, and investigate & support an establishment of the program in Ku-ring-gai.
- B. That the Lead On Ku-ring-gai Steering Committee be invited to present at a meeting. Following this, a briefing be held with Councillors, with a report to be made available for discussion with the Councillors before it is to be presented to Council subsequent to the meeting.
- C. That Council staff investigate, with Lead On Australia, possible locations for suitable premises for Lead On to operate from, including the community room under the Turramurra Library.
- D. That an additional \$5,000 be included in the Financial Assistance Program in the 2008-09 budget, for Youth Services, and that Lead On Ku-ring-gai be invited to apply for funding for projects which meet the Financial Assistance guidelines.

CARRIED UNANIMOUSLY

PETITIONS

355 **"Rippon Grange" - 35 Water Street & 64 Billyard Avenue, Wahroonga - (Eight Hundred & Thirteen [813] Signatures)**

File: DA0855/06-2

"Petition from Chairman of John Williams Neighbourhood Group:

I write this letter in my capacity as Chair of the John Williams Neighbourhood Group Inc. As you know, our incorporated association proudly represents the residents of Wahroonga and neighbouring suburbs.

In particular I refer to the attached petition, which draws to your attention two matters of particular concern, as stated in the petition:

We request that -

- (a) the John Williams Hospital site at 35 Water St Wahroonga be zoned residential 2(c) consistent with the zoning and use of the surrounding private properties; and
- (b) the heritage values be protected by the urgent listing of the whole site on the State Heritage Register

We further request that you formally put the attached petition before a full Council meeting, and that support of Council be demonstrated by way of formal motions to endorse the above requests, based on the wide-spread community backing shown by the number of signatories to the petition.

We further seek a letter be sent from Council to the NSW State Heritage Office and the NSW State Heritage Council to reiterate and confirm Council's request for the urgent listing of the whole site as a State Heritage Site on the State Heritage Register, based on the unique and valuable heritage values of the built forms and the extant original gardens and landscaping.

Conclusion

We consider that in the light of the recent LEC decision, the requested rezoning and listing on the State Heritage Register will further protect a valuable part of Wahroonga's and NSW's heritage. The support of Council is essential to this effort, and will be strongly supported by the Wahroonga community.

On behalf the John Williams Neighbourhood Group and the community of supporters, we very much appreciate your putting forward of these requests."

Resolved:

(Moved: Councillor Cross/Mayor, Councillor Ebbeck)

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

CARRIED UNANIMOUSLY

356 **Roseville Chase Community Petition on Gun Shop Approval - (Seven Hundred & Seventy-Two [772] Signatures)**

File: DA0621/07

Petition presented by Councillor Jennifer Anderson:

"This is a petition regarding the opening of a gun shop at 19-21 Babbage Road, Roseville Chase which the Ku-ring-gai Council approved on 25th July via DA 0621/07. The signatories to this petition want the decision of the Council to approve the DA to be rescinded or for Council to find alternative premises for the gun shop in a more appropriately located area".

Resolved:

(Moved: Councillors Anderson/Hall)

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

CARRIED UNANIMOUSLY

357

Petition to Oppose Demolition & Support the Heritage Listing of "St Helens", 16 Stanhope Road, Killara - (One Hundred & Two [102] Signatures

File: DA1423/06

Petition presented by Councillor Adrienne Ryan:

"We, the undersigned, strongly oppose the demolition and support the heritage listing of "St Helens" 16 Stanhope Road, Killara for the following reasons:

- "St Helens" has been recommended by two Council heritage experts for heritage listing.
- "St Helens" is significant as a largely externally intact example of the Inter-War Georgian Revival Styles, within the important streetscape of Stanhope Road.
- "St Helens" has social significance for its part in the development of the suburb of Killara and essential to the streetscape of Stanhope Road as the southern entrance to the suburb of Killara. Stanhope Road is considered to be one of Ku-ring-gai's important streetscapes (1987 Heritage Study).
- "St Helens" setbacks, building form and architectural detail reflect the planning instruments and condition of early 20th Century development and the high social standing of the occupants of the houses within this Killara street, e.g. Doctors and JPs.
- "St Helens" contributes significantly to the established character and feel of the street, as being a street which features substantial intact mansions of quality. "St Helens" is representative of the upper middle class development of Killara during 1890-1930.
- "St Helens" lies in the Killara UCA 10 first identified by the National Trust in 1996 and subsequently studied by Godden MacKay Logan and Perumal Murphy Alessi Pty Ltd. Both reports supported heritage listing "St Helens" and recommended UCA status for Culworth precinct No.10 in which "St Helens" is situated".

Resolved:

(Moved: Councillors Ryan/Lane)

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

CARRIED UNANIMOUSLY

GENERAL BUSINESS**358 8 Arnold Street, Killara - Tennis Court Lighting & Extended Hours of Operation**

File: REV0007/07

Ward: Gordon

Applicant: Peter Roach

Owner: Killara Lawn Tennis Club Ltd

To review the determination (refusal) of Development Application No 1246/06 for the erection of tennis court lighting and extended hours of operation of the tennis courts. This has been called to full Council for determination by Mayor, Councillor Nick Ebbeck.

Resolved:

(Moved: Councillors Ryan/Lane)

- A. That consideration of tennis court lighting & extended hours of operation at 8 Arnold Street, Killara be deferred pending a site inspection.
- B. That the applicant be requested to have the location of the proposed development pegged out on site for the inspection.

CARRIED UNANIMOUSLY

359 12 Woonona Avenue, Wahroonga - Demolition of Existing Structures & Construction of a Residential Flat Building

File: DA0416/07

Ward: Wahroonga

Applicant: Peter Sotiriou

Owner: Peter Sotiriou

To determine Development Application 416/07 which seeks consent for the demolition of existing structures and construction of a residential flat building.

Resolved:

(Moved: Councillor Cross/Mayor, Councillor Ebbeck)

- A. That consideration of Development Application No 0416/07 at 12 Woonona Avenue, Wahroonga be deferred pending a site inspection.
- B. That the applicant be requested to have the location of the proposed development pegged out on site for the inspection.

CARRIED UNANIMOUSLY

360 **Delegation of Authority - Mayor & Deputy Mayor, 2007/2008**

File: S02017

For Council to give consideration to granting Delegations of Authority to Mayor and Deputy Mayor.

Resolved:

(Moved: Councillors Ryan/Cross)

That the Delegations of Authority as set out in Attachment A be granted to the Mayor, Councillor N Ebbeck and to the Deputy Mayor, Councillor A Andrew as set out in Attachment B.

CARRIED UNANIMOUSLY

361 **2007 Financial Assistance Grants to Community Groups**

File: S06068

To advise Council of applications received from community groups for financial assistance in 2007, and to recommend to Council subsequent funding allocations.

Resolved:

(Moved: Councillors Ryan/Cross)

- A. That the community and cultural groups as listed receive financial assistance from Council in 2007.

Community and Cultural Groups	Amount Recommended
	\$
18th Australian Infantry Battalion (Ku-ring-gai Regiment)	\$400.00
1st Lindfield Scout Group	\$980.00
1st Middle Harbour Sea Scout Group	\$1,121.00
1st North Turrumurra Scout Group	\$1,197.00
Albert Drive Community Fire Unit	\$359.00
Australian Breastfeeding Association (ABA) – Turrumurra Group	\$1,000.00
Babybumps Support Group (previously POSIE)	\$1,500.00
Boonah Creative Arts Centre, Centacare	1,870.00
Carols in the Park - Ku-ring-gai	\$9,000.00
Constant Companion Service	1,635.00
Cromehurst Special School P & C Vacation Activity Centre	3,000.00
Dial-A-Mum Inc	\$500.00
Disabled Alternative Road Travel Service - DARTS	1,000.00
East Lindfield Community Pre-school	\$1,683.00
Easy Care Gardening Inc	1,000.00
English at Gordon (Gordon Baptist Church Cross Cultural Friendship Centre)	\$1,079.00
Friends of the Richard Geeves Centre	2,000.00
Holy Family Youth Group	\$1,000.00
Hornsby District TPI Social & Welfare Club	400.00
Hornsby Ku-ring-gai & Hills Multiple Births Association	

(HK & HMBA)	\$1,260.00
Hornsby Ku-ring-gai Association, Action for Mental Health Inc	1,500.00
Hornsby Ku-ring-gai Domestic Violence Network	\$3,000.00
Hornsby/Ku-ring-gai Police & Community Youth Club	\$1,150.00
Ignite the Flame - Ku-ring-gai Combined Churches Festival (Fusion Australia Ltd)	\$2,000
Killara High School (Duke of Edinburgh Award Scheme)	\$1,018.00
Killara Scout Group (Koola Ave, Killara)	\$1,100.00
KU Killara Park Pre-School	\$1,000.00
KU Saddington St Pre School	\$1,400.00
KU South Turrumurra Pre School	\$710.00
KU Wahroonga Pre-School	\$1,300.00
Ku-ring-gai Art Society	\$2,000
Ku-ring-gai Community Workshop "The Shed" Inc.	3,000.00
Ku-ring-gai Family Support Program	\$1,075.00
Ku-ring-gai Historical Society Inc	\$2,315.00
Ku-ring-gai Male Choir Inc	\$375
Ku-ring-gai Meals on Wheels (KMOW)	1,595.00
Ku-ring-gai Philharmonic Orchestra	\$8,500
Lady Game Community Kindergarten	\$1,065.00
Lifestart - Hornsby Early Childhood Intervention Program	\$1,900.00
Lindfield Montessori Preschool	\$840.00
Mirrabooka Singers	\$1,605
Montessori Excelsior School	\$935.00
MS Society - Ku-ring-gai Branch	1,000.00
Noah's Ark Toy Library (NATL) for Children with Special Needs Inc	\$2,000.00
Northside Creative Photography (NCP) Inc	\$1,508.00
NSW Early Childhood Environmental Education Network (NSWECEEN) Incorporated	\$4,000.00
Parkinson's NSW Inc - Hornsby Ku-ring-gai Support Group	1,500.00
Pymble Turrumurra Kindergarten	\$4,000.00
Roseville P & C Kids Care Association	\$2,500.00
Ryde Argyle Performing Arts Inc. (RAPA)	\$2,000
SHHH Australia Inc (Self Help for Hard of Hearing People)	1,000.00
South Turrumurra Community Fire Unit MHP-39	\$988.00
Special Olympics Upper North Shore Sydney Region	1,000.00
St Ives Pre-school Kindergarten	\$2,388.00
St Ives Toastmasters Club	\$600.00
Studio Artes Northside Inc.	\$1,137.00
Technical Aid to the Disabled (TAD) NSW	1,060.00
The Cavalcade of History and Fashion Inc	\$1,000.00
The Community Friendship Group "Cooinda"	1,000.00
The Gordon Handcraft Association	\$950.00
The Green Tent	\$220.00
Visually Impaired Support Group - Lindfield	600.00
Wahroonga Public School Music Committee	\$1,500.00
Warrabee Probus Club Inc	400.00
Wires - Wildlife Information & Rescue Service (North Shore Branch)	\$1,500.00
	\$105,218.00

- B. That all groups receiving a grant, advise Council by 31 May 2007 how the grant was spent.
- C. That those groups recommended for financial assistance from Council receive the cheques personally from the Mayor at a future Council meeting.

CARRIED UNANIMOUSLY

362 **Renewal of Bushland, Catchments & Natural Areas Reference Group Membership**

File: S03448

For Council to endorse the renewal and new memberships to the Bushland, Catchments & Natural Areas Reference Group.

Resolved:

(Moved: Councillors Ryan/Andrew)

- A That Council endorse the appointment of thirteen (13) nominees for the Bushland, Catchments & Natural Areas Reference Group until the next Local Government Election, scheduled for September 2008.
- B That each retiring member of the Bushland, Catchments & Natural Areas Reference Group be sent a letter of appreciation, thanking them for their contribution.
- C. That it be noted that the Bushland, Catchments & Natural Areas Reference Group's Charter has been amended to show the name Ku-ring-gai Bat Conservation Society Inc.

CARRIED UNANIMOUSLY

363 **Annual Tender for Supply, Supply & Delivery & Supply, Delivery & Laying of Asphalt Concrete**

File: S05465

To seek Council's approval to accept the NSROC tender for the schedule of rates for the supply, supply and delivery and supply, delivery and laying of asphaltic concrete, including the associated road profiling and heavy patching works for the period 2007/08.

Resolved:

(Moved: Councillors Ryan/Lane)

- A. That the tender rates submitted by Downer EDi Works for supply, supply and delivery and the supply, delivery and laying of asphaltic concrete and associated road profiling works for 2007/2008 be accepted as the primary supplier and Boral Asphalt as an alternate supplier, if Downer Edi Works is unable to supply or satisfactorily perform.
- B. That the tender rates submitted by A J Paving for heavy patching for 2007/2008 be accepted and D & M Excavation and Asphaltting Pty Ltd as an alternate contractor, if A J Paving does not meet the performance standard.
- C. That the tenderers be advised of Council's decision.

- D. That authority be given to the Mayor and General Manager to affix the Common Seal of the Council to the instrument for the Contract for the Supply and Laying of Asphaltic Concrete and associated specifications.

CARRIED UNANIMOUSLY

364 **Heritage Advisory Committee - Minutes of 16 July 2007**

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File: S03816

To report to Council the Minutes from the Heritage Advisory Committee Meeting held 16 July 2007.

Resolved:

(Moved: Councillors Anderson/Ryan)

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

CARRIED UNANIMOUSLY

365 **Parks, Sport & Recreation Reference Group - Minutes of 30 August 2007**

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File: S03447

To bring to the attention of the Ordinary Meeting of Council, the Minutes from the Parks, Sport and Recreation Reference Group meeting held on Thursday, 30 August 2007.

Resolved:

(Moved: Councillor Ryan/Mayor, Councillor Ebbeck)

That the Minutes of the Parks, Sport and Recreation Reference Group held on Thursday, 30 August 2007 be received and noted.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

366 **Reclassification of Council Land**

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File: S05477

Notice of Motion from Councillor Elaine Malicki & Councillor Laura Bennett dated 16 September 2007.

We move:

"Given the doubts expressed over the legality of Council's reclassification process, that Council seek a second legal opinion from a Senior Counsel and that the lawyer be given copies of the correspondence from the Department."

Resolved:

(Moved: Councillors Malicki/Bennett)

That the above Notice of Motion as printed be adopted.

CARRIED UNANIMOUSLY

367

Salary Increase Negotiations

(Section 10A(2)(a) - Personnel matters concerning particular individuals)

File: S05387

Report by Director Corporate dated 18 September 2007.

Resolved:

(Moved: Councillor Ryan/Mayor, Councillor Ebbeck)

- A. That authorisation be given to the General Manager to sign an Agreement with the Unions for a 2007 general increase in pay rates for employees previously covered by the Local Government (State) Award 2004.
- B. That the 2007 percentage general increase in pay rates be negotiated under the terms outlined in the report and the Confidential Memorandum from the Director Corporate dated 24 September 2007.

CARRIED UNANIMOUSLY

*Standing Orders were suspended to deal with the
Business Paper items where there are speakers first
and to also deal with NM.6 - Heritage List - 16 Stanhope Road, Killara
prior to GB.3 - 16 Stanhope Road, Killara - Demolition & Construction
of a New Two-Storey Dwelling
after a Motion moved by Councillors Ryan & Lane*

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

Against the Resolution: Councillor Hall

GENERAL BUSINESS (cont)368 **102 Rosedale Road, St Ives - Erection of a Two-Storey Dwelling House**

File: DA0393/07

Ward: St Ives

Applicant: Bosco Seeto & Associates

Owner: Triport Developments Pty Ltd

The following members of the public addressed Council:

**Dr A Little
N Pallin
P Chorley**

To determine development application No.0393/07 for the erection of a two storey dwelling house.

Resolved:

(Moved: Councillors Bennett/Hall)

PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT Council, as the consent authority, refuse development consent to Development Application No 393/07 for the erection of a two storey dwelling house on land at No 102 Rosedale Road, St Ives, as shown on plans A01, A02 & A03, prepared by Bosco Seeto & Associates dated 1/05/2007, for the following reasons:

Critically Endangered Community, Blue Gum High Forest (BGHF)

- 1. The proposal will result in a significant adverse impact to the critically endangered community Blue Gum High Forest which exists on the site and on adjoining land.**

Particulars

- (a) The site and adjoining properties (Dalrymple-Hay Nature Reserve, Browns Forest Reserve, Sydney Water Land and No.100 Rosedale Road (owned by DECC)) support one of the largest remaining areas (about 20ha) of the critically endangered community, Blue Gum High Forest. The proposed development of the site will result in the severe modification of BGHF and a substantial reduction in its native species diversity and ecological function.
- (b) NSW Rural Fire Service requires that the entire site to be maintained as an Inner Protection Area as outlined under Planning for Bushfire Protection 2006. The bushfire protection measures will severely modify the critically endangered BGHF on the site.

- (c) Construction of the dwelling house will remove most of the regenerating plants in the clearing. Regeneration of BGHF in the clearing would be permanently curtailed.
- (d) The proposal fails to satisfy the aims and objectives of SEPP19 – Bushland in Urban Areas.
- (e) The proposal fails to satisfy the aims under Clause 1(a) and (b) and the objectives under Clause 2(c) of Schedule 9 under the KPSO.
- (f) The proposal fails to satisfy the aims under Clause 1.2 of DCP38.

Species Impact Statement

2. The submitted Species Impact Statement (SIS) is inadequate and fails to satisfy the relevant legislative requirements.

Particulars:

- (a) The SIS fails to satisfy the legislative requirements of the Threatened Species Conservation Act 1995. Under Section 111(1) of the TSC Act 1995, the applicant must make an application to the Department of Environment and Climate Change (DECC) for the Director General's requirements concerning the form and content of the SIS. DECC have no records that the proponent has made this application with regards to the subject proposal.
- (b) The SIS fails to acknowledge the recent upgrading of BGHF from an endangered community to a critically endangered community under the NSW TSC Act 1995 and the Commonwealth EPBC Act 1999.
- (c) The SIS (prepared by Conacher Travers, April 2007) fails to demonstrate how the objective of 'no net loss' of BGHF would be achieved. No compensatory measures have been proposed to offset the impact of the development. The relocation of the dwelling to an alternative location on the site would still have the same impact due to the APZ requirements for the entire site.
- (d) The recent upgrading of BGHF from an endangered community to a critically endangered community raises the importance of the fact that there should be no significant impact and no net loss of the community as a result of the development.
- (e) The proposal will have greater impacts than suggested by the SIS. The SIS fails to properly address the total impacts of the development on and off the site with regards to cut and fill, diversion trenches (upslope of the dwelling) and dispersal trenches (downslope of the dwelling). Unsatisfactory assessment has been made regarding runoff/erosion issues on and off the site.
- (f) The SIS fails to assess potential impacts on the threatened Barking Owl which has been recently recorded in the area.

Aboriginal heritage

3. Insufficient information has been provided on Aboriginal heritage to conclude that the site has no aboriginal significance.

Particulars:

- (a) A aboriginal heritage assessment (prepared by a qualified consultant) has not been submitted.

4. Construction of the dwelling and driveway

Particulars:

- (a) The proposed removal of the following trees as identified in the Arborist report prepared by Landscape Matrix Pty Ltd, dated 19 April 2007 is not well founded and not supported due to their contribution to the endangered ecological community BGHF:

T23 *Eucalyptus saligna* (Sydney Blue Gum)

T30 *Eucalyptus saligna* (Sydney Blue Gum)

T52 *Eucalyptus pilularis* (Blackbutt)

T53 *Allocasuarina torulosa* (Forest Oak)

T77 *Angophora costata* (Sydney Red Gum)

T80 *Angophora costata* (Sydney Red Gum)

- (b) The proposed excavation and associated batter (as shown on the stormwater drainage plan) will extend into the primary root zones of two *Eucalyptus pilularis* (Blackbutt) trees located close to the northern boundary of the site and located close to the southern boundary of the adjoining Sydney Water depot site. The excavation and batter is likely to have a negative impact upon these trees. Both trees are of good health and are significant in the landscape. As the trees contribute to the critically endangered BGHF, the extent of excavation and batter is not supported.
- (c) The proposed massed planting of the drainage trench is inappropriate and incompatible with existing BGHF ground cover species.
- (d) The driveway will cause localised runoff concentration and pollutants from concentrate (road-base and/or bitumen) will impact on BGHF on and off the site.

5. Unsatisfactory information

Particulars:

- (a) The concept stormwater drainage plans do not comply with the BASIX commitments.
- (b) The proposal fails to satisfy the requirements of Section 6.7.1 of DCP47. Detail of the required site storage calculations has not been submitted.
- (c) The Statement of Environmental Effects (dated February 2007) and the SIS (date April 2007) have not been prepared in concert.
- (d) The Stormwater plan and landscape plan are inconsistent.

- 6. The development is not considered to be in the public interest.

7. The development would impact on the adjoining Dalrymple-Hay Nature Reserve which is listed on the Register of the National Estate as Place ID Number 2851. Listing it in the Register is intended to alert all Australians, particularly decision makers, to its heritage value.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

369 **Heritage List - 16 Stanhope Road, Killara**

File: S04325

The following members of the public addressed Council:

**I Stutchbury
A Carroll
C Cowley
S Cowper**

Notice of Motion from Councillor Jennifer Anderson dated 17 September 2007.

I move:

- "1. That Council resolve to heritage-list 16 Stanhope Road Killara and to include it as such in an amendment under schedule 7 of the KPSO.
2. That Council advise the Department of Planning of its decision to prepare a draft LEP in accordance with section 54 of the Environmental Planning and Assessment Act, 1979.
3. Upon receipt of a response from Department of Planning in relation to "2" above, the draft LEP be prepared and consultation with statutory authorities be undertaken in accordance with Section 62 of the Act.
4. That Council request that the NSW Heritage Council recommend an Interim Heritage Order to provide temporary protection for the house.
5. That Council obtain the services of a suitable Heritage consultant to assist Council in the heritage listing of the existing building at 16 Stanhope Road, Killara and, in the Class 1 appeal currently before the Land and Environment Court".

Resolved:

(Moved: Councillors Anderson/Andrew)

That the above Notice of Motion as amended be adopted.

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

Against the Resolution: Councillors Hall and Lane

GENERAL BUSINESS (cont)

370 **16 Stanhope Road, Killara - Demolition & Construction of a New Two-Storey Dwelling**

File: DA1423/06

The following members of the public addressed Council:

**E Sarich
A Carroll
K Cowley**

To determine Development Application No 1423/06 which seeks consent for demolition of existing dwelling, carport & swimming pool & the construction of a new two storey dwelling with integrated garage, an indoor swimming pool at the rear of the property.

*Council adjourned for a short interval at 9.02pm
after a Motion moved by Councillors Lane & Mayor, Councillor Ebbeck*

For the Adjournment: The Mayor, Councillor N Ebbeck, Councillors Andrew, Bennett, Cross, Hall, Lane, Malicki & Anderson

Against the Adjournment: Councillor Ryan

The Meeting resumed at 9.30pm

Those present were:

**The Mayor, Councillor N Ebbeck
Councillor Anderson
Councillor Andrew
Councillor Bennett
Councillor Cross
Councillor Hall
Councillor Lane
Councillor Malicki
Councillor Ryan**

Resolved:

(Moved: Councillors Ryan/Lane)

That DA1423/06 for demolition of the existing dwelling house and erection of a new two-storey dwelling at 16 Stanhope Road, Killara be refused for the following reasons:

1. The proposal will result in the loss of a potential local heritage item;
2. The proposal is inconsistent with Council's resolution of 25 September 2007 to heritage list the existing house at 16 Stanhope Road;
3. The proposal will result in the loss of a contributory item in the draft Urban Conservation Area;
4. The proposal will result in the loss of a significant element in the existing streetscape of Stanhope Road;
5. The proposal will result in the loss of the existing circular driveway, which is inconsistent with Council's Visual Character Study identified in DCP 38;
6. The proposed building is non-compliant with the height development standard in the KPSO;
7. The proposed building is non-compliant with the following controls of DCP 38:
 - i. Side setback control
 - ii. FSR control
 - iii. Unrelieved wall length control
 - iv. Maximum number of storeys control
8. The proposed building will have inadequate articulation to its front façade;
9. The proposed building will have an adverse streetscape impact;
10. The proposal is not in the public interest.

CARRIED UNANIMOUSLY

371 **3 to 7 Lorne Avenue, Killara - Demolition of Dwellings & Construction of a Residential Flat Building (60 Units), Car Park & Strata Subdivision**

File: DA1307/06

Ward: Gordon

Applicant: Frasers Killara Pty Ltd

Owners: Adarata Investments Pty Ltd, Sue-Ellen Hills, John G Alexander and D Gayle Meredith, Lisa Charlene Bowd, William Stanhope Wade and Wendel Christine Wade

The following members of the public addressed Council:

**N Wulff
S Chong**

To determine development application No 0307/06, which seeks consent for demolition of dwellings and construction of a residential flat building (66 units), car park and strata subdivision.

Resolved:

(Moved: Councillors Lane/Ryan)

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 25K of Local Environmental Plan 194* is well founded. The Council is also of the opinion that strict compliance with this development standard is unreasonable and unnecessary in the circumstances of this case.

THAT the Council, as the consent authority, grant development consent to DA 1307/06 for the construction of a residential flat development, basement car parking and strata subdivision on land at 3-7 Lorne Avenue, Killara, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. Approved architectural plans and documentation (new development)

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
A 100 Rev	Tonkin Zulaikha Greer	September 2006
Drawings A-101 to 109 Rev E	Tonkin Zulaikha Greer	September 2006
Drawings A 400-404 Rev E	Tonkin Zulaikha Greer	September 2006
Drawings A 200-201 Rev E	Tonkin Zulaikha Greer	September 2006
A 202 Rev B	Tonkin Zulaikha Greer	July 2007
Drawings A 300-302	Tonkin Zulaikha Greer	September 2006
Landscape plan 101 H	Site Image	November 2006
Landscape plans 301-304 G	Site Image	November 2006
Landscape plans 401 to 404 G	Site Image	November 2006
Landscape plan 151 B	Site Image	January 2007
Landscape plan 601A	Site Image	November 2006
Document(s)		Dated
Strata plans 3-18 by Denny Linker and Co		7 June 2007
BASIX Certificate No. 106117M		24 November 2006

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

<i>Brachychiton acerifolius</i> (Flame Tree) Tree 17	Commencement of excavation, stormwater lines within 6m of tree
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 18	Commencement of excavation, stormwater lines within 6m of tree
<i>Ulmus glabra</i> 'Lutescens' (Golden Wych Elm) Tree 19	Commencement of excavation, stormwater lines within 6m of tree
<i>Cupressus macrocarpa</i> (Monterey Cypress) Tree 20	Commencement of excavation, stormwater lines within 6m of tree
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 34	Commencement of excavation, stormwater lines within 6m of tree
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 35	Commencement of excavation, stormwater lines within 6m of tree
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 36	Commencement of excavation, stormwater lines within 6m of tree
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 37	Commencement of excavation, stormwater lines within 6m of tree
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 38	Commencement of excavation, stormwater lines within 6m of tree
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 40	Commencement of excavation, stormwater lines within 6m of tree, during construction of retaining walls
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 42	Commencement of excavation, stormwater lines within 6m of tree, during construction of retaining walls
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 44	Commencement of excavation, stormwater lines within 6m of tree, during construction of front walls
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 45	Commencement of excavation, stormwater lines within 6m of tree, during construction of front walls
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 46	Commencement of excavation, stormwater lines within 6m of tree, during construction of front walls
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 47	Commencement of excavation, stormwater lines within 6m of tree, during construction of front walls

<i>Jacaranda mimosifolia</i> (<i>Jacaranda</i>) Tree 48	Commencement of excavation, stormwater lines within 6m of tree, during construction of front walls
<i>Jacaranda mimosifolia</i> (<i>Jacaranda</i>) Tree 49	Commencement of excavation, stormwater lines within 6m of tree, during construction of front walls
<i>Jacaranda mimosifolia</i> (<i>Jacaranda</i>) Tree 51	Commencement of excavation, stormwater lines within 6m of tree, during construction of front walls

Reason: To ensure protection of existing trees

4. Tree removal on nature strip

Following removal of the *Jacaranda mimosifolia* (*Jacaranda*) Tree 50 from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Landscape Assessment Officer at no cost to Council.

Reason: To protect the streetscape.

5. Treatment of tree roots

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.

6. Hand excavation

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

Schedule	Radius from Trunk
Tree/location	
<i>Cupressus sempervirens</i> 'Stricta' (Slender Italian Cypress)/Tree 15/row x 7 specimens	3m
<i>Cedrus deodara</i> (Himalayan Cedar)/Tree 15A	6m
<i>Castanospermum australe</i> (Moreton Bay Chestnut) Tree 16	4m
<i>Brachychiton acerifolius</i> (Flame Tree) Tree 17	4m
<i>Jacaranda mimosifolia</i> (<i>Jacaranda</i>) Tree 18	4m
<i>Ulmus glabra</i> 'Lutescens' (Golden Wych Elm) Tree 19	4m
<i>Cupressus macrocarpa</i> (Monterey Cypress) Tree 20	5m
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 34	4m
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 35	4m
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 36	4m
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 37	4m
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 38	4m
<i>Jacaranda mimosifolia</i> (<i>Jacaranda</i>) Tree 40	6m

<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 42	5m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 44	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 45	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 46	4m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 47	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 48	4m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 49	5m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 51	5m

Reason: To protect existing trees.

7. No storage of materials beneath trees

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.

8. Tree planting on nature strip

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

Schedule

Tree/ species	Quantity	Location
<i>Jacaranda mimosifolia</i> (Jacaranda)	2	Lorne Avenue (between Trees 44 and 45 and between Trees 48 and 49)

Reason: To provide appropriate landscaping within the streetscape.

9. Supervision of transplanting

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
<i>Magnolia x soulangiana</i> (Magnolia) Tree 25	Front setback of development

Reason: To protect the trees during transplanting.

10. Removal of refuse

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.

11. Canopy replenishment trees to be planted

The canopy replenishment 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

Reason: To maintain the treed character of the area.

12. Stockpiling of top soil

Top soil shall be stripped from areas to be developed and stock-piled within the site. Stock-piled topsoil must be located outside drainage lines and tree canopies and be protected from run-on water by suitably positioned diversion banks. Where the period of storage will exceed fourteen (14) days, stock-piles are to be seeded or sprayed with an appropriate emulsion solution to minimise particle movement.

Reason: To protect the environment.

13. Temporary groundcover

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.

14. Vegetating steep slopes

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 DEMOLITION, EXCAVATION OR CONSTRUCTION**15. Notice to be given prior to demolition or excavation**

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.

16. Notice of commencement

At least 48 hours prior to the commencement of any development or excavation works, a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

Reason: Statutory requirement.

17. Notification of builder's details

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

Reason: Statutory requirement.

18. Dilapidation survey and report (public infrastructure)

Prior to the commencement of any demolition or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures of the following public infrastructure, has been completed and submitted to Council:

Public infrastructure

- Full road pavement width, including kerb and gutter, of Lorne Avenue over the site frontage.
- All driveway crossings and laybacks opposite the subject site.

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

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

Note: A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any excavation works.

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

19. Dilapidation survey and report (private property)

Prior to the commencement of any demolition or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures upon the following lands, has been completed and submitted to Council:

Address

- 30 to 38 and 40a Culworth Avenue
- Tennis court at 9 Lorne Avenue

The dilapidation report must include a photographic survey of adjoining properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof and structural members. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report.

In the event that access for undertaking the dilapidation survey is denied by a property owner, the applicant must demonstrate in writing to the satisfaction of the Principal Certifying Authority that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

Note: A copy of the dilapidation report is to be provided to Council prior to any excavation works been undertaken. The dilapidation report is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any civil action required to resolve any dispute over damage to adjoining properties arising from works.

Reason: To record the structural condition of likely affected properties before works commence.

20. Construction and traffic management plan

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:

a) 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

b) 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.

c) 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.

21. Work zone

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.

22. Erosion and drainage management

Earthworks and/or demolition of any existing buildings shall not commence until an erosion and sediment control plan is submitted to and approved by the Principal Certifying Authority. The plan shall comply with the guidelines set out in the Landcom manual "Managing Urban Stormwater: Soils and Construction" certificate. Erosion and sediment control works shall be implemented in accordance with the erosion and sediment control plan.

Reason: To preserve and enhance the natural environment.

23. Erosion control

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. All

sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifying Authority and Council officers.

Reason: To protect the environment from erosion and sedimentation.

24. Temporary construction exit

A temporary construction exit, together with necessary associated temporary fencing, shall be provided prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.

Reason: To reduce or eliminate the transport of sediment from the construction site onto public roads.

25. Sediment controls

Prior to any work commencing on site, sediment and erosion control measures shall be installed along the contour immediately downslope of any future disturbed areas.

The form of the sediment controls to be installed on the site shall be determined by reference to the 'NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction'. The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

Reason: To preserve and enhance the natural environment.

26. Noise and vibration management plan

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority. The management plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Ku-ring-gai Council's Code for the Control and Regulation of Noise on Building Sites. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

The management plan shall address, but not be limited to, the following matters

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent
- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures

- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints
- compliance with Council's Code for the Control and Regulation of Noise on Building Sites

Reason: To protect the amenity afforded to surrounding residents during the construction process.

27. Support for Council roads, footpaths, drainage reserves

Council property adjoining the construction site must be fully supported at all times during all excavation and 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 to and approved by the Principal Certifying Authority (PCA), before the commencement of the works. A copy of these details must be forwarded to Council. 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.

Reason: To protect Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

28. Amendments to approved landscape plan

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:

Plan No.	Title	Drawn by	Dated
101/H	Masterplan	Site Image	9/07/07
301/G	Hardworks Plan Sheet 1	Site Image	9/07/07
302/G	Hardworks Plan Sheet2	Site Image	9/07/07
303/G	Hardworks Plan Sheet 3	Site Image	9/07/07
304/G	Hardworks Plan Sheet 4	Site Image	9/07/07
401/G	Softworks Plan Sheet 1	Site Image	9/07/07
402/G	Softworks Plan Sheet2	Site Image	9/07/07
403/G	Softworks Plan Sheet 3	Site Image	9/07/07

404/G	Softworks Plan Sheet 4	Site Image	9/07/07
601/A	Landscape Sections	Site Image	9/07/07
101/H	Masterplan	Site Image	9/07/07

The above landscape plan(s) shall be amended in the following ways:

- Proposed graded banks shown on Hardworks Plans sheets 1-4, to all landscape areas of development shall be maximum 1:3 gradient.
- Hardworks Plan sheet 1 and 3 to include site boundaries
- Hardworks Plan sheet 4 shall show outline of 1m wide path to front boundary.
- Existing sandstone paving within nature strip opposite entrance to No.5 Lorne Avenue to be retained and protected.
- Proposed planting of *Banksia ericifolia* and *Xanthorrhoea sp.* to be substituted with shrub/groundcover planting representative of Blue Gum High Forest community.
- Proposed planting of *Ceratopetalum gummiferum* (NSW Christmas Bush) as screen planting shall incorporate a minimum three additional shrub species representative of low water use/Blue Gum High Forest community such as *Grevillea 'Ivanhoe'*, *Clerodendron tomentosum* and *Pittosporum revolutum* or similar.
- Proposed indigenous screen planting to western site boundary of Building Bin vicinity to heritage property, to be substituted with *Viburnum tinus*, *Xylosma congestum*, *Elaeagnus pungens* or similar.
- To provide sufficient area for effective landscape to setbacks of development, all proposed access paths to be setback minimum 3 metres from the site boundary. Path to northern boundary of site shall be located over proposed relocated drainage easement. Screen planting to boundaries to be layered to include in addition to tall trees, medium trees, small trees and shrubs (Clause 4.1, C-8(ii), DCP 55).
- Height of front walls to Lorne Avenue and to driveway entry to be maximum of 1.2m.
- Landscape Plan to indicate drainage pits, grates and tanks.
- The private courtyards are to be reduced in size as detailed by the following:
 - The courtyard for Unit 2.13, Building B, within the side setback are to not encroach closer than 4m to the northern site boundary.
- Two additional tall endemic canopy trees capable of attaining a minimum height of 13m are to be planted north of Units 1.02 and 1.05, to Building A along northern site boundary.
- Proposed planting of *Elaeocarpus reticulatus* within northern, western and eastern setback of Building A and eastern and western setback of Building B, to be located between proposed access path and site boundary and minimum 4m from building footprint.
- Two additional tall endemic canopy trees capable of attaining a minimum height of 13m are to be planted with a minimum spacing of 5m, to Building A along western site boundary.
- Two additional tall endemic canopy trees capable of attaining a minimum height of 13m are to be planted with a minimum spacing of 5m, to Building A along eastern site boundary.

- Proposed planting of three super advanced trees to central communal area of development to be planted on level ground not on landscaped banks.
- Proposed planting of an *Acer saccharinum* south of Unit 1.02, Building A, to be substituted with a super advanced *Magnolia grandiflora* or *Cedrus deodar*. Planting of *Magnolia grandiflora* 'Exmouth' to not to be substituted for *Magnolia grandiflora*.
- Proposed planting of *Magnolia grandiflora* 'Exmouth' to north of Unit 1.08, Building B to be substituted with a super advanced *Acer saccharum* or similar.
- Proposed botanic name of *Acer saccharinum* (Sugar Maple) of to be replaced with *Acer saccharum* (Sugar Maple).
- One additional tall endemic canopy trees capable of attaining a minimum height of 13m are to be planted with a minimum spacing of 5m, to Unit 2.13, Building B along northern site boundary.
- Two additional tall endemic canopy trees capable of attaining a minimum height of 13m are to be planted with a minimum spacing of 5m, to Building B along western site boundary.
- Proposed planting of *Jacaranda mimosifolia* (Jacaranda) to front setback of development to be substituted with a large evergreen canopy tree species such as *Magnolia grandiflora* or *Cedrus deodar* or similar.
- Proposed planting of *Eucalyptus paniculata* (Grey Ironbark) to front setback to south east of car park exhaust to be substituted with *Eucalyptus saligna* (Sydney Blue Gum).

Reason: To ensure adequate landscaping of the site

29. Landscape plan

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that a landscape plan has been completed in accordance with Council's DA Guide, relevant development control plans and the conditions of consent by a landscape architect or qualified landscape designer.

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

Reason: To ensure adequate landscaping of the site.

30. Excavation for services

Prior to the issue of the Construction Certificate, the Principal Certifying shall be satisfied that no proposed underground services (ie. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

Note: A plan detailing the routes of these services and trees protected under the Tree Preservation Order shall be submitted to the Principal Certifying Authority.

Reason: To ensure the protection of trees.

31. Pier & beam footings near trees

Prior to the issue of the Construction Certificate, the Principal Certifying shall be satisfied that the footings of the proposed front fence will be isolated pier or pier and beam construction within the specified radius of the trunk(s) of the following tree(s).

Schedule**Tree/location****Radius in metres**

<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 40	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 42	5m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 44	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 45	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 46	4m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 47	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 48	4m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 49	5m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 51	5m

The piers shall be located such that no roots of a diameter greater than 30mm will be severed or injured during the construction period. The beam(s) shall be of reinforced concrete or galvanised steel sections and placed in positions with the base of the beam being a minimum of 50mm above existing soil levels.

Note: Structural details of the pier or pier and beam construction shall be submitted to the Principal Certifying Authority.

Reason: To protect existing trees.

32. Consolidation of lots

Prior to issue of any Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. Note that Ku-ring-gai Council does **not** necessarily need to approve or endorse lot *consolidation* plans.

Reason: To ensure continuous structures will not be placed across separate titles.

33. Design of infrastructure works

The Applicant must replace the dilapidated trunk drainage pipe within the property.

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 59a of the *Local Government Act 1993*** for the works in the Public Road, required by this condition. The Construction Certificate must not be issued until Council has issued a formal written consent.

To obtain consent for the infrastructure works, 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 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, and erosion control requirements

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.

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

34. Gradient of entry drive

Prior to issue of the Construction certificate, the Principal Certifying Authority is to be satisfied that the gradient of the entry/ exit drive does not exceed 20%.

Reason: To allow access by Council's waste collection contractors.

35. Stormwater management plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:

- exact location and reduced level of discharge point to the public drainage system
- Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence)
- location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems and where proprietary products are to be used, manufacturer specifications or equivalent shall be provided

- specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments
- details of the required on-site detention tanks required by Ku-ring-gai Water Management DCP 47, including dimensions, materials, locations, orifice and discharge control pit details as required (refer Chapter 6 and Appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements)
- the required basement stormwater pump-out system is to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design)

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the Building Code of Australia. The plans may be generally based on the concept plan by IDG submitted with the development application, which are to be advanced as necessary for construction certificate issue purposes.

Reason: To protect the environment.

36. Stormwater retention

Prior to the issue of a Construction Certificate, the Principal Certifying Authority is to be satisfied that:

- A mandatory rainwater retention and re-use system, comprising storage tanks and ancillary plumbing is provided. The minimum total storage volume of the rainwater tank system, and the prescribed re-use of the water on site must satisfy all relevant BASIX commitments and the requirements specified in Chapter 6 of Ku-ring-gai Water Management Development Control Plan 47; and
- An on-site stormwater detention system must be provided 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 - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The on-site detention system must be designed 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.

37. Driveway crossing levels

Prior to issue of the Construction Certificate, driveway and associated footpath levels for any 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".

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.

This development consent is for works wholly within the property. Development 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.

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

38. Basement car parking details

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

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 – 2004 "Off-street car parking"
- a clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement
- no doors or gates are provided in the access driveways to the basement car park which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

Reason: To ensure that parking spaces are in accordance with the approved development.

39. Vehicular access and garaging

Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking”. Details are to be provided to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that parking spaces are in accordance with the approved development.

40. Energy Australia requirements

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

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

Reason: To ensure compliance with the requirements of Energy Australia.

41. Utility provider requirements

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

Reason: To ensure compliance with the requirements of relevant utility providers.

42. Infrastructure restorations fee

To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.

- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.
- e) In this condition:

“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

Reason: To maintain public infrastructure

43. Design of infrastructure works

The Applicant must replace the dilapidated trunk drainage pipe within the property.

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 59a of the *Local Government Act 1993*** for the works in the Public Road, required by this condition. The Construction Certificate must not be issued until Council has issued a formal written consent.

To obtain consent for the infrastructure works, 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 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 and erosion control requirements

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.

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

44. Long Service Levy

In accordance with Section 109F(i) of the Environmental Planning and Assessment Act a Construction Certificate shall not be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

Reason: Statutory requirement.

45. Outdoor lighting

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that all outdoor lighting will comply with AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

Note: Details demonstrating compliance with these requirements are to be submitted prior to the issue of a Construction Certificate.

Reason: To provide high quality external lighting for security without adverse affects on public amenity from excessive illumination levels.

46. Air drying facilities

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that a common open space area dedicated for open air drying of clothes is

provided. This area is to be located at ground level behind the building line and in a position not visible from the public domain.

In lieu of the above, written confirmation that all units will be provided with internal clothes drying facilities prior to the Occupation Certificate is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Amenity & energy efficiency.

47. Access for people with disabilities (residential)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that access for people with disabilities to and from and between the public domain, residential units and all common open space areas is provided. Consideration must be given to the means of dignified and equitable access.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate. All details shall be prepared in consideration of the Disability Discrimination Act, and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards.

48. Adaptable units

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the nominated adaptable units within the development application, [enter unit nos.], are designed as adaptable housing in accordance with the provisions of Australian Standard AS4299-1995: Adaptable Housing.

Note: Evidence from an appropriately qualified professional demonstrating compliance with this control is to be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Disabled access & amenity.

49. Garbage storage

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the development provides a common garbage collection/separation area sufficient in size to store all wheelie garbage bins and recycling bins provided by Council for the number of units in the development in accordance with DCP 40. The garbage collection point is to be accessible by Council's Waste Collection Services.

Note: The architectural plans are to be amended and provided to the Certifying Authority.

Reason: Environmental protection.

50. Noise from road and rail (residential only)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the building is acoustically designed and constructed to meet the requirements of AS 2107 and the Environment Protection Authority's Guidelines for Acoustic Privacy within Premises.

Note: Plans and specifications of the required acoustic design shall be prepared by a practicing acoustic engineer and shall be submitted to the Principal Certifying Authority.

Reason: To minimise the impact of noise from the adjoining major road or rail corridor on the occupants of the development.

51. Noise from plant in residential zone

Where any form of mechanical ventilation equipment or other noise generating plant is proposed as part of the development, prior to the issue of the Construction Certificate the Certifying Authority, shall be satisfied that the operation of an individual piece of equipment or operation of equipment in combination will not exceed more than 5dB(A) above the background level during the day when measured at the site's boundaries and shall not exceed the background level at night (10.00pm –6.00 am) when measured at the boundary of the site.

C1. Note: A certificate from an appropriately qualified acoustic engineer is to be submitted with the Construction Certificate, certifying that all mechanical ventilation equipment or other noise generating plant in isolation or in combination with other plant will comply with the above requirements.

Reason: To comply with best practice standards for residential acoustic amenity.

52. Builder's indemnity insurance

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the 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. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at 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).

Reason: Statutory requirement.

53. External finishes and materials (new building)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the external finishes of the building are consistent with the character of the streetscape. The materials are to be complimentary to the approved architectural appearance of the development. Nothing in this condition is to be construed as permitting the replacement of previously submitted materials with inferior or inadequate materials or finishes.

Note: Details of the colour, finish and substance of all external materials, including schedules and a sample board of materials and colours, are to be submitted.

Reason: To protect the streetscape and the integrity of the approved development.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST)

54. Public liability insurance – works on public land

Any person or contractor undertaking works on public land must take out public risk insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent.

The policy is to note and provide protection for Ku-ring-gai Council as an interested party and a copy of the policy must be submitted to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). The policy must be valid for the entire period that the works are being undertaken on public land.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land

55. Section 94 Contribution – residential development

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	\$6,384.75
sportsgrounds works	\$1,318.32
aquatic / leisure centres	\$27.82
traffic and transport	\$150.28
section 94 Plan administration	100.04

Total contribution is: \$1,315,165.40

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.

56. Tree protection fencing

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 from Trunk
<i>Cupressus sempervirens 'Stricta'</i> (Slender Italian Cypress) Tree 15/row x 7 specimens	2m
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 15A	6m
<i>Castanospermum australe</i> (Moreton Bay Chestnut) Tree 16	4m
<i>Brachychiton acerifolius</i> (Flame Tree) Tree 17	4m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 18	4m
<i>Ulmus glabra 'Lutescens'</i> (Golden Wych Elm) Tree 19	4m
<i>Cupressus macrocarpa</i> (Monterey Cypress) Tree 20	5m
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 34	4m
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 35	4m
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 36	4m
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 37	4m
<i>Alnus jorullensis</i> (Evergreen Alder) Tree 38	4m

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 the construction phase.

57. Tree protection fencing excluding structure

To preserve the following tree/s, no work shall commence until the area beneath their canopy excluding that area of the proposed building 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:

Schedule

Tree/location	Radius from Trunk
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 40	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 42	5m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 44	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 45	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 46	4m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 47	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 48	4m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 49	5m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 51	5m

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

58. Tree protection signage

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.

59. Tree protection mulching

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.

60. Tree fencing inspection

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.

61. Underground services

All electrical services (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point. Undergrounding of services must not disturb the root system of existing trees and shall be undertaken in accordance with the requirements of the relevant service provider. Documentary evidence that the relevant service provider has been consulted and that their requirements have been met are to be provided to the Certifying Authority prior to the issue of the Construction Certificate. All electrical and telephone services to the subject property must be placed underground and any redundant poles are to be removed at the expense of the applicant.

Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground.

CONDITIONS TO THE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES**62. Approved plans to be on site**

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.

63. Prescribed conditions

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 works commence.

Reason: Statutory requirement.

64. Statement of compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person

that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of any works.

Reason: To ensure compliance with the Australian Standards.

65. Demolition, excavation and construction work hours

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm Saturday. 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 to neighbouring properties.

66. Construction noise

During excavation, demolition and construction phases, 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.

67. Site notice

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.

68. Dust control

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.

69. Use of road or footpath

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from 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.

70. Guarding excavations

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.

71. Toilet facilities

During excavation, demolition and construction phases, toilet facilities are to be provided, on the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Reason: Statutory requirement.

72. Protection of public places

If the work involved in the erection, demolition or construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a

hoarding or fence must be erected between the work site and the public place.

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

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

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

Reason: To protect public places.

73. Construction signage

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.

74. Erosion control

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifying Authority and Council officers.

Reason: To protect the environment from erosion and sedimentation.

75. Drainage to drainage easement

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped and connected to the piped Council drainage system within the site. Drainage line connections to the system shall conform and comply with the relevant detail in Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe") and in Ku-ring-gai Water Management Development Control Plan No. 47.

Reason: To protect the environment.

76. Grated drain at garage

A 200mm wide grated channel/trench drain, with a heavy-duty removable galvanised grate is to be provided in front of the garage door/basement parking

slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

Reason: Stormwater control.

77. Sydney Water Section 73 Compliance Certificate

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 Co-ordinator. The applicant is to refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-develop” 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 Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Reason: Statutory requirement.

78. Further geotechnical input

The geotechnical and hydro-geological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Coffey Geotechnics. Over the course of the works, a qualified geotechnical/hydro-geological engineer must complete the following:

- further geotechnical investigations and testing recommended in the above report(s) and as determined necessary
- further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary
- written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs

Reason: To ensure the safety and protection of property.

79. Compliance with submitted geotechnical report

A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee excavation.

Geotechnical aspects of the development work, namely:

- appropriate excavation method and vibration control
- support and retention of excavated faces
- hydro-geological considerations

must be undertaken in accordance with the recommendations of the geotechnical report prepared by Coffey Geotechnics. Approval must be

obtained from all affected property owners, including Ku-ring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

Reason: To ensure the safety and protection of property.

80. Approval for rock anchors

Approval is to be obtained from the property owner for any anchors proposed beneath adjoining private property. If such approval cannot be obtained, then the excavated faces are to be shored or propped in accordance with the recommendations of the geotechnical and structural engineers.

Reason: To ensure the ongoing safety and protection of property.

81. Maintenance period for works in public road

A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - after the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the applicant receives a formal letter from Council stating that the works involving public infrastructure have been completed satisfactorily.

Reason: To protect public infrastructure.

82. Road reserve safety

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 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 footways and roadways during construction

83. Road repairs necessitated by excavation and construction works

It is highly likely that damage will be caused to the roadway at or near the subject site as a result of the construction (or demolition or excavation) works. The applicant, owner and builder (and demolition or excavation contractor as appropriate) will be held responsible for repair of such damage, regardless of the Infrastructure Restorations Fee paid (this fee is to cover wear and tear on

Council's wider road network due to heavy vehicle traffic, not actual major damage).

Section 102(1) of the Roads Act states "A person who causes damage to a public road is liable to pay to the appropriate roads authority the cost incurred by that authority in making good the damage."

Council will notify when road repairs are needed, and if they are not carried out within 48 hours, then Council will proceed with the repairs, and will invoice the applicant, owner and relevant contractor for the balance.

Reason: To protect public infrastructure.

84. Services

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

Reason: Provision of utility services.

85. Temporary rock anchors

If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council and/or the Roads and Traffic Authority in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all the work that is to be considered, and the works are not to commence until approval has been granted. The designs are to include details of the following:

- How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road
- That the locations of the rock anchors are registered with Dial Before You Dig
- That approval of all utility authorities likely to use the public road has been obtained. All temporary rock anchors are located outside the allocations for the various utilities as adopted by the Streets Opening Conference.
- That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or work in the public road.
- That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than 75mm high. The signs are to be at not more than 60m spacing. At least one sign must be

visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

- Permanent rock anchors are not to be used where any part of the anchor extends outside the development site into public areas or road reserves.
- All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads Act 1993.

Reason: To ensure the ongoing safety and protection of property.

86. Temporary disposal of stormwater runoff

During construction, stormwater runoff must be disposed of in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.

Reason: To preserve and enhance the natural environment.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

87. Compliance with BASIX Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. ## have been complied with.

Reason: Statutory requirement.

88. Clotheslines and clothes dryers

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that the units either have access to an external clothes line located in common open space or have a mechanical clothes dryer installed.

Reason: To provide access to clothes drying facilities.

89. Mechanical ventilation

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that all mechanical ventilation systems are installed in accordance with Part F4.5 of the Building Code of Australia and comply with Australian Standards AS1668.2 and AS3666 Microbial Control of Air Handling and Water Systems of Building.

Reason: To ensure adequate levels of health and amenity to the occupants of the building.

90. Fire safety certificate

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire or other safety measures forming part of this consent has been completed and provided to Council.

Note: A copy of the Fire Safety Certificate must be submitted to Council.

Reason: To ensure suitable fire safety measures are in place.

91. Rail noise

An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with Railcorp's Interim Guidelines for Applicants in the consideration of rail noise and vibration from the adjacent rail corridor.

92. Rail noise

The applicant is to procure a report on the Electrolysis Risk to the development from stray currents, and the measures that will be taken to control that risk. The applicant is advised to consult an Electrolysis expert. The expert's report must be submitted to Railcorp for review by the Senior Electrolysis Engineer or nominated Electrolysis Section personnel.

CONDITIONS TO BE SATISFIED AT ALL TIMES:**93. No door restricting internal waste collection in basement**

At all times, the basement garbage storage and collection area is to be accessible by Council's Waste Collection Services. No doors, grilles, gates or other devices shall be provided in any location which would prevent this service. Where a gate, door or the like is to be erected, unimpeded access to the garbage collection point is to be provided by other means through written agreement with Council's Waste Collection Services.

Reason: To facilitate access to the garbage collection point.

94. Outdoor lighting

At all times for the life of the approved development, all outdoor lighting shall not detrimentally impact upon the amenity of other premises and adjacent dwellings and shall comply with, where relevant, AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

Reason: To protect the amenity of surrounding properties.

95. Noise control – plant and machinery

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. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest boundary.

Reason: To protect the amenity of surrounding residents.

96 Car parking

At all times, the visitor car parking spaces are to be clearly identified and are to be for the exclusive use of visitors to the site. On site permanent car parking spaces are not to be used by those other than an occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building.

These requirements are to be enforced through the following:

- restrictive covenant placed on title pursuant to Section 88B of the Conveyancing Act, 1919
- restriction on use under Section 68 of the Strata Schemes (Leasehold Development) Act, 1986 to all lots comprising in part or whole car parking spaces

Reason: To ensure adequate provision of visitor parking spaces.

97. Mechanical ventilation

Following completion, installation and testing of all the mechanical ventilation systems, the Principal Certifying Authority shall be satisfied of the following prior to the issue of any Occupation Certificate:

1. The installation and performance of the mechanical systems complies with:
 - the Building Code of Australia
 - Australian Standard AS1668
 - Australian Standard AS3666 where applicable
2. The mechanical ventilation system in isolation and in association with other mechanical ventilation equipment, when in operation will not be 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. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest adjoining boundary.

Note: Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To protect the amenity of surrounding properties.

98. Accessibility

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that:

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 – 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

Reason: Disabled access & services.

99. Completion of landscape works

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.

100. Removal of noxious plants & weeds

The following noxious and/or environmental weed species shall be removed from the property prior to completion of building works:

Schedule**Plant species**

Hedera sp. (Ivy)

Senna pendula (Cassia)

Ligustrum lucidum (Large-leaved Privet)

Ligustrum sinense (Small-leaved Privet)

Olea europaea subsp. africana (African Olive)

Cinnamomum camphora (Camphor laurel)

Tradescantia albiflora (Wandering Jew)

Reason: To protect the environment.

101. Infrastructure works

The relocation of the Council stormwater pipeline is to be completed in accordance with the approved plans and any conditions imposed by Council. Works-as-executed drawings are to be prepared by a registered surveyor and the designing engineer is to certify that the works have been carried out in

accordance with the design. Council's approval of the works is to be obtained and submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure that works are to the satisfaction of Council.

102. Provision of copy of OSD designs if Council is not the PCA

Prior to issue of the Occupation Certificate, the following must be provided to Council's Development Engineer:

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

Reason: For Council to maintain its database of as-constructed on-site stormwater detention systems.

103. Certification of drainage works (dual occupancies and above)

Prior to issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
- the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Water Management Development Control Plan No. 47 respectively, have been achieved
- retained water is connected and available for use
- basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and Appendix 7.1.1 of Ku-ring-gai Water Management Development Control Plan No. 47
- all grates potentially accessible by children are secured
- components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2003 and the Building Code of Australia
- all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices

The rainwater certification sheet contained in Appendix 13 of the Ku-ring-gai Water Management Development Control Plan No 47, must be completed and attached to the certification. Where an on-site detention system has been constructed, the on-site detention certification sheet contained in Appendix 4 of DCP 47 must also be completed and attached to the certification.

Note: Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

Reason: To protect the environment.

104. WAE plans for stormwater management and disposal

Prior to issue of the Occupation Certificate, a registered surveyor must provide a works as executed survey of the completed stormwater drainage and management systems. The survey must be submitted to and approved by the Principal Certifying Authority prior to issue of the Occupation Certificate. The survey must indicate:

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

The works as executed 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.

105. Basement pump-out maintenance

Prior to issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a maintenance regime has been prepared for the basement stormwater pump-out system.

Note: A maintenance regime specifying that the system is to be regularly inspected and checked by qualified practitioners is to be prepared by a suitable qualified professional and provided to the Principal Certifying Authority.

Reason: To protect the environment.

106. CCTV report of pipe after work

Prior to issue of the Occupation Certificate, a closed circuit television inspection and report on the Council drainage pipeline traversing the site is to be undertaken by appropriate contractors and provided to Council's Development Engineer. The report is to include a copy of the footage of the inside of the pipeline.

Reason: To protect the environment.

107. Sydney Water Section 73 Compliance Certificate

Prior to issue of an Occupation Certificate the Section 73 Sydney water Compliance Certificate must be obtained and submitted to the Principal Certifying Authority

Reason: Statutory requirement.

108. Certification of as-constructed driveway/car park – RFB

Prior to issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the as-constructed car park complies with the approved Construction Certificate plans
- the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 – 2004 "Off-Street car parking" in terms of minimum parking space dimensions
- finished driveway gradients and transitions will not result in the scraping of the underside of cars
- no doors, gates, grilles or other structures have been provided in the access driveways to the basement car park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area
- the vehicular headroom requirements of:
 - Australian Standard 2890.1 – "Off-street car parking",
 - 2.44 metres height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement car park.

Note: Evidence from a suitably qualified and experienced traffic/civil engineer indicating compliance with the above is to be provided to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Reason: To ensure that vehicular access and accommodation areas are compliant with the consent.

109. Reinstatement of redundant crossings and completion of infrastructure works

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that the following works in the road reserve have been completed:

- new concrete driveway crossing in accordance with levels and specifications issued by Council
- removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)
- full repair and resealing of any road surface damaged during construction
- full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing

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

Reason: To protect the streetscape.

CONDITIONS TO BE COMPLIED WITH PRIOR TO SUBDIVISION CERTIFICATE**110. OSD positive covenant**

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" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Water Management Development Control Plan No. 47). The location of the on-site detention facilities for all dwellings is to be noted on the final plan of subdivision.

Reason: To ensure maintenance of on site stormwater detention facilities.

111. Retention and re-use positive covenant

The applicant shall create a positive covenant and restriction on the use of land under Section 88B of the Conveyancing Act 1919, burdening the property with

the requirement to maintain the site retention and re-use facilities. 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" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Water Management Development Control Plan No. 47). The location of the on-site detention facilities for all dwellings is to be noted on the final plan of subdivision.

Reason: To ensure maintenance of site retention and re-use facilities.

112. Easement for waste collection

An easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Council's Development Engineer.

Reason: To permit legal access for Council, Council's contractors and their vehicles over the subject site for waste collection.

113. Submission of 88b instrument

Prior to the 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 to Council. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the burdens.

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

114. Submission of plans of subdivision (strata)

For issue of the subdivision certificate, the applicant shall submit an original plan of subdivision plus 6 copies suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of subdivision and its copies, where Council is the consent authority:

- the endorsement fee current at the time of lodgement
- the 88B instrument plus 6 copies
- all surveyors and/or consulting engineers' certification(s) required under this subdivision consent.

All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention facilities, which are to be common property, must be included on the final plans of strata subdivision. Where Council is the certifying authority, officers will check the consent conditions on

the subdivision. Failure to submit the required information will delay endorsement of the linen plan and may require payment of re-checking fees.

Plans (and copies) of subdivision must not be folded. Council will not accept bonds in lieu of completing subdivision works. If the certifying authority is not Council, then a copy of all of the above must be provided to Council.

Reason: Statutory requirement.

115. No door restricting internal waste collection in basement

At all times, the basement garbage storage and collection area is to be accessible by Council's Waste Collection Services. No doors, grilles, gates or other devices shall be provided in any location which would prevent this service. Where a gate, door or the like is to be erected, unimpeded access to the garbage collection point is to be provided by other means through written agreement with Council's Waste Collection Services.

Reason: To facilitate access to the garbage collection point.

116. Evidence of easement registration

Prior to issue of the Occupation Certificate, the applicant is to submit documentary evidence that the relocated easement has been registered on the title of the property. A Council resolution may be necessary for this easement to be registered. A registered surveyor is to certify that the pipe is wholly contained within the easement.

Reason: To protect public infrastructure.

117. Post-construction dilapidation report

The applicant shall engage a suitably qualified person to prepare a post construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to the Principal Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Principal Certifying Authority must:

- compare the post-construction dilapidation report with the pre-construction dilapidation report
- have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.

A copy of this report is to be forwarded to Council at the completion of the construction works.

Reason: Management of records.

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

Against the Resolution: Councillor Bennett

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

372 **BMX Facility**

File: S04675

Notice of Motion from Councillor Tony Hall dated 13 September 2007.

I move:

"That the Council investigate and report back to Council more appropriate areas for BMX bike riding in a controlled environment in Ku-ring-gai LGA to lessen the current conflicts that skateboarders suffer with intrusive bike riders at the St Ives Skate Rink at 6 Memorial Avenue, St Ives in the Village Green."

Resolved:

(Moved: Councillors Hall/Bennett)

That the above Notice of Motion as amended be adopted.

CARRIED UNANIMOUSLY

373 **Hassell Park**

File: S02285

Notice of Motion from Councillor Tony Hall dated 11 September 2007.

I move:

(Moved: Councillors Hall/Malicki)

- A. That Council begin to investigate the use of Hassell Park for early evening games on nine Saturdays per year.
- B. That staff report to Council on the requirements of a Development Application for this activity and any necessary amendments to the Plan of Management.
- C. That local residents be informed of this proposal by mail and submissions be invited accordingly.

- D. That a report be presented to Council with results of this consultation. The report to consider any Development Application and Plan of Management changes necessary".

Resolved:

(Moved: Councillors Ryan/Cross)

- A. That draft amendments be made to the Sportsgrounds Plan of Management that facilitate the use of Hassell Park for early evening games on nine Saturdays per year.
- B. That draft amendments to the plan of management be reported to Council prior to exhibition.
- C. That all surrounding residents and neighbours be informed of this proposal by mail within 3 days and submissions be invited to be considered in the development of amendments to the draft plan and by Council.

CARRIED UNANIMOUSLY

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

That the Notice of Motion as amended be adopted.

374

134 Eastern Road, Wahroonga

File: P41852

The following members of the public addressed Council:

**C Parr
Jessica
A Parr**

Notice of Motion from Councillor Ian Cross dated 12 September 2007.

I move that:

1. The General Manager immediately contacts the land owner and seeks their level of interest for the sale of Lot 1, on the corner of Mona and Water Streets, Wahroonga.
2. The General Manager source valuations.
3. Confirmation that S94 funding could be used to obtain this land and an examination of any other funding sources."

Resolved:

(Moved: Councillor Cross/Mayor, Councillor Ebbeck)

That the above Notice of Motion as amended be adopted.

CARRIED UNANIMOUSLY

375 **Off-Leash Dog Area Turramurra**

File: S02038

The following members of the public addressed Council:

M White
N McIntosh

Notice of Motion from Councillor Ian Cross dated 17 September 2007.

I move:

- "A. That the existing off leash area adjacent to Karuah Park on the corner of Karuah avenue and Turramurra avenue be disbanded as an off leash area.
- B. That the area immediately adjacent to the Turramurra Memorial Park oval (pedestrian walkway only) be declared an off leash area immediately.
- C. During the development of the Landscape master plan for Turramurra Park the matter of an appropriate location of a leash free area within the Park be considered.
- D. That appropriate sign posting of the new area be provided.
- E. That the sports field and associated facilities within the Memorial Park precinct remain on leash at all times".

Resolved:

(Moved: Councillors Ryan/Lane)

- A. That the matter of off-leash provision at Turramurra Memorial Oval Park be deferred for consideration in the development of a landscape masterplan for Turramurra Memorial and Karuah Park.
- B. That consultation be undertaken with all stakeholder groups regarding off-leash areas in the development of the draft masterplan and the results of this consultation be reported to Council when the exhibition of a draft plan is to be considered.
- C. That the sportsfield and associated facilities within the Memorial Park precinct remain on-leash at all times.

For the Resolution: Councillors Andrew, Bennett, Hall, Lane, Malicki, Ryan & Anderson

Against the Resolution: The Mayor, Councillor N Ebbeck & Councillor Cross

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

(Moved: Councillor Cross/Mayor, Councillor Ebbeck)

That the above Notice of Motion as printed be adopted.

**At 11.40pm a Motion moved by Councillors Lane & Bennett
to extend the meeting until all Business completed
was put to the vote**

*For the Resolution: The Mayor, Councillor N Ebbeck, Councillors Andrew,
Bennett, Cross, Lane, Malicki, Shelley and Anderson*

Against the Resolution: Councillors Hall and Ryan

GENERAL BUSINESS (cont)

376

Representation on Community Committees/Organisations

File: S02355

For Council to make appointments to community committees/organisations for 2007/2008.

Resolved:

(Moved: Mayor, Councillor Ebbeck/Councillor Ryan)

- A. That Council make appointments to community committees/organisations as follows:

The Ku-ring-gai Police and Community Safety Committee

Councillor Lane

Ku-ring-gai Meals on Wheels Inc

Councillor Cross

Eryldene Trust

Councillor Anderson

RTA-Sydney Region Combined Consultative Forum

Councillor Lane

Hornsby/Ku-ring-gai Bushfire Management Committee

Councillor Andrew
Mayor, Councillor Ebbeck (Alternate)

Metropolitan Public Libraries Association

Councillor Anderson

Rural Fire Service District Liaison Committee

Councillor Andrew

Hawkesbury/Nepean Local Government Advisory Group

Councillor Andrew

Northern Sydney Regional Organisation of Councils (NSROC)

Mayor, Councillor Ebbeck
Councillor Malicki
Councillor Ryan

Ku-ring-gai Youth Development Service Inc Management Committee

Councillor Anderson

- B. That the community committees/organisations be informed of Council's representatives.

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

Against the Resolution: Councillor Bennett

377

Election of Chairpersons/Deputy Chairpersons - 2007 to 2008 Committees & Advisory Committees

Files: S02080, S02110, S02355, S03447, S03448, S03449, S03816, S05043, S05396

For Council to give consideration to the election of the Chairpersons/Deputy Chairpersons for Council's Informal Committees & Advisory Committees.

Resolved:

(Moved: Mayor, Councillor Ebbeck/Councillor Ryan)

- A. That Council elect the Chairperson/Deputy Chairperson for the following Committees:

POLICY REVIEW COMMITTEE

Chairperson: Councillor Ryan
Deputy Chairperson: The Mayor, Councillor Ebbeck

FINANCE COMMITTEE

Chairperson: Councillor Cross
Deputy Chairperson: Councillor Ryan

COMMUNITY DEVELOPMENT COMMITTEE

Chairperson: Councillor Anderson
Deputy Chairperson: Councillor Hall

COUNCIL FACILITIES COMMITTEE

Chairperson: Councillor Hall
Deputy Chairperson: The Mayor, Councillor Ebbeck

- B. That Council elect Councillor Andrew as Deputy Chairperson for the Planning Committee.

NOTE: The Mayor is the Chairperson (see Minute No 419 of 2005).

- C. That Council elect the Chairperson/Deputy Chairperson for the following Committees, where necessary:

BUSHLAND, CATCHMENTS & NATURAL AREAS REFERENCE GROUP

Chairperson: Councillor Malicki
Deputy Chairperson: Councillor Andrew

PARKS, SPORT & RECREATION REFERENCE GROUP

Chairperson: The Mayor, Councillor Ebbeck (unchanged)
Deputy Chairperson: Councillor Malicki (unchanged)

COMPANION ANIMALS ADVISORY COMMITTEE

Chairperson: Councillor Hall
Deputy Chairperson: Councillor Ryan (unchanged)

HERITAGE ADVISORY COMMITTEE

Chairperson: Councillor Anderson (unchanged)
Deputy Chairperson: The Mayor, Councillor Ebbeck

KU-RING-GAI ACCESS CONSULTATIVE COMMITTEE

Chairperson Councillor Lane (unchanged)
Deputy Chairperson Councillor Anderson (unchanged)

KU-RING-GAI TRAFFIC COMMITTEE

Chairperson Councillor Lane (unchanged)
Deputy Chairperson: The Mayor, Councillor Ebbeck

- D. That the membership of the Facilities Committee be as follows:

Councillor Hall (Chairperson)
 The Mayor, Councillor Ebbeck (Deputy Chairperson)
 Councillor Anderson
 Councillor Andrew
 Councillor Lane

- E. That Council form a new Committee called the "Sustainability Reference Group" in accordance with the Charter as provided to Councillors and the General Manager.
- F. That Council elect the Chairperson/Deputy Chairperson for the Sustainability Reference Group.

Chairperson: The Mayor, Councillor Ebbeck
Deputy Chairperson: Councillor Malicki

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

Against the Resolution: Councillor Bennett

378 **National General Assembly of Local Government - 2007**

File: S03788

For Council to determine its elected delegates to the 2007 National General Assembly of Local Government.

Resolved:

(Moved: Councillors Hall/Lane)

- A. That Councillors Hall, Ryan and Lane be Council's delegates to the 2007 National General Assembly of Local Government.
- B. That Councillor Hall be nominated as Council's voting delegate to the Assembly.
- C. That Councillor Ryan be nominated as Council's second voting delegate to the Assembly.
- D. That the General Manager or his delegate be permitted to attend the General Assembly.
- E. That the Council Meeting scheduled for Tuesday, 27 November be re-scheduled, if necessary.
- F. Any other Councillors wishing to attend the Conference advise the General Manager by Friday, 28 September 2007.

CARRIED UNANIMOUSLY

379

Investment Report as at 31 August 2007

File: S05273

To present to Council investment allocations and returns on investments for August 2007.

Resolved:

(Moved: Councillor Ryan/ Councillor Hall)

That the Council's investments be considered at the next Finance Committee meeting.

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

Against the Resolution: Councillors Bennett, Cross & Malicki

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

(Moved: Councillors Bennett/Malicki)

That the staff delegation to invest in funds below A A be suspended, pending a review of Council's investments, including if possible, by its auditors.

380 **Bushland, Catchments & Natural Areas Reference Group –
Minutes of Meeting of 20 August 2007**

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File: S03448

To bring to the attention of Council the proceedings from the Bushland, Catchments and Natural Areas Reference Group meeting held on Monday, 20 August 2007.

Resolved:

(Moved: Councillors Malicki/Andrew)

That the Minutes of the Bushland, Catchments & Natural Areas Reference Group Meeting of Monday, 20 August 2007 and attachments be received and noted.

CARRIED UNANIMOUSLY

381 **Bushfire Prone Land Map (2007)**

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File: S04805

To seek Council's approval to refer the updated Bushfire Prone Land Map (2007) to the NSW Rural Fire Service for certification.

Resolved:

(Moved: Councillor Bennett/Mayor, Councillor Ebbeck)

- A That Council adopt the Bushfire Prone Land Map (2007) for certification by the Commissioner of the NSW Rural Fire Service.
- B To refer submissions received by Ku-ring-gai Council to the NSW Department of Planning in relation to the evacuation risk areas.

CARRIED UNANIMOUSLY

382 **Draft Financial Statements for year ended 30 June 2007**

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File: S05767

To present to Council the Draft Financial Statements for the year ended 30 June 2007 for certification and referral to Council's external auditors, Spencer Steer Chartered Accountants.

Resolved:

(Moved: Councillors Bennett/Andrew)

- A. That Council receive and certify the Draft Financial Statements for the year ended 30 June 2007.
- B. That the Draft Financial Statements be referred to Council's external Auditor, Spencer Steer Chartered Accountants to provide an opinion on the Draft Financial Statements and to report to Council.
- C. That the Draft Financial Statements be certified by the Mayor, Deputy Mayor or Chairperson of the Finance Committee, the General Manager and the Responsible Accounting Officer in accordance with Section 413(2)(C) of the Local Government Act 1993.
- D. That Tuesday, 16 October 2007 be fixed as the date for the public meeting to present the audited Financial Statements and the audit reports for the year ended 30 June 2007 as required by Section 419 of the Local Government Act 1993, and that Council's external Auditors be present to answer questions.
- E. That the auditors examine losses arising from Council's investment practices, quantify them and make recommendations following the presentation of the financial statements to Council to improve Council's practices if possible.

CARRIED UNANIMOUSLY

The above Resolution was subject to an Amendment which was LOST. The LOST Amendment was:

(Moved: Councillors Ryan/Hall)

- A. *That Council receive and certify the Draft Financial Statements for the year ended 30 June 2007.*
- B. *That the Draft Financial Statements be referred to Council's external Auditor, Spencer Steer Chartered Accountants to provide an opinion on the Draft Financial Statements and to report to Council.*
- C. *That the Draft Financial Statements be certified by the Mayor, Deputy Mayor or Chairperson of the Finance Committee, the General Manager and the Responsible Accounting Officer in accordance with Section 413(2)(C) of the Local Government Act 1993.*
- D. *That Tuesday, 16 October 2007 be fixed as the date for the public meeting to present the audited Financial Statements and the audit reports for the year ended 30 June 2007 as required by Section 419 of the Local Government Act 1993, and that Council's external Auditors be present to answer questions.*

383 **Ku-ring-gai Town Centres Local Environmental Plan & Development Control Plan Update on Independent Consultants Review**

File: S04151

To provide Council with an update on the independent review of the outstanding issues with the Town Centres Local Environmental Plan (LEP) and Development Control Plan (DCP).

Resolved:

(Moved: Councillors Malicki/Ryan)

That Council receive and note this report.

For the Resolution: The Mayor, Councillor N Ebbeck, Councillors Andrew, Cross, Hall, Lane, Malicki, Ryan and Anderson

Against the Resolution: Councillor Bennett

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

384 **UTS Oval**

File: S03621

Notice of Motion from Councillor Jennifer Anderson dated 17 September 2007.

At a recent meeting of the Community Reference Group for the redevelopment assessment of the UTS site, representatives of the UTS outlined an assessment of existing community facilities at the subject site.

With particular reference to the existing sports field, UTS outlined that should Council consider its retention as a sports ground so important that it was welcome to purchase the site.

I move:

"That Council staff commence negotiations with UTS to purchase its oval for community sport and recreation purposes for the amount of \$1.00".

Resolved:

(Moved: Councillors Hall/Anderson)

That the above Notice of Motion as printed be adopted.

CARRIED UNANIMOUSLY

Councillor Bennett withdrew

GENERAL BUSINESS (cont)385 **Marian Street Theatre Feasibility Study - Consultant's Proposals**

File: P51074

Report by Commercial Services Co-ordinator, Director Community & Director Strategy dated 17 September 2007.

Resolved:

(Moved: Councillors Malicki/Ryan)

- A. That Council accept the proposal submitted by Australia Street Company as the preferred consultant to undertake the feasibility study at Marian Street Theatre.
- B. Additional costs required to complete the feasibility study are funded through the new facilities reserve.
- C. That following completion of the consultant's study a further report be brought to Council within 2 months advising of the preferred option/s for the future use of the theatre.

CARRIED UNANIMOUSLY

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION386 **Donation by Turramurra Community Bank - Payment for Fencing at Sir David Martin Reserve, Turramurra**

File: S04471

Business Without Notice presented by Councillor Malicki:

Councillor Malicki explained that she had a cheque from Bendigo Bank to pay for some fencing around the off-leash area in South Turramurra.

The urgency is that the works are being done.

The following item was dealt with after a Motion moved by Councillor Malicki & the Mayor, Councillor Ebbeck to have the matter dealt with at the meeting was CARRIED UNANIMOUSLY and the Chairperson ruled urgency

Councillor Bennett returned

Resolved:

(Moved: Councillors Malicki/Andrew)

- A. That Council receives the cheque for \$5,500 from the Turramurra Community Bank as payment for fencing at the off-leash area at Sir David Martin Reserve.
- B. That the Mayor write to thank the Bank for its generosity.

CARRIED UNANIMOUSLY

QUESTIONS WITHOUT NOTICE

387 **Railway Avenue, Wahroonga - Arrangement of Meeting relating to Car Parking & Traffic Congestion at Wahroonga Shops**

File: 88/05959/03

Question Without Notice from Councillor I Cross

Could the General Manager and the Director Operations please arrange a follow-up meeting with the Wahroonga Ward Councillors in relation to car parking and traffic congestion at the Wahroonga shops as per a previous Notice of Motion by the now Mayor? The meeting to also include business funding for the Wahroonga Precinct.

Answer by the General Manager

Happy to.

388 **Golden Jubilee Oval - Gang Behaviour**

File: S02246

Question Without Notice from Councillor I Cross

Could the Director of Operations please urgently investigate Golden Jubilee Oval in regard to gang behaviour most nights after 10.00pm?

Could the installation of a gate at the entrance to the car park be considered and reported back to Ward Councillors.

Answer by the Mayor

Yes.

389 Exempt & Complying Development - DCP46

File: S02067

Question Without Notice from Councillor T Hall

I have received a number of complaints from residents who seek to improve their home with relatively minor additions but the prescription applied by and the restrictions of DCP46 force the costs of development fees and charges seem higher than the additions themselves.

Could an urgent review of DCP46 be made to reduce the impost on mums and dads in our area who seek to improve their residences?

Answer by the General Manager

I suggest that issue come to a Planning Committee for review.

390 Marian Street Theatre - Possible Regional Art Gallery Use

File: P51074

Question Without Notice from Councillor T Hall

I ask if the General Manager would refer an alternative use of Marian Street Theatre as a regional art gallery for say, Ku-ring-gai and Hornsby, which can attract significant Federal and State grants and be a repository for considerable artworks currently held in private hands in Ku-ring-gai, and referred to the preferred consultant to consider in the future use of the Theatre and report back to Council.

I understand that the Laverty Art Collection, Wahroonga, would be one such collection available. (Mr Laverty was the former curator of the Art Gallery of NSW).

Answer by the Director Community

Yes, we can take that on board.

391 Bland Shire Family Fun Day

File: S05745

Question Without Notice from Councillor E Malicki

Over the weekend, I travelled to Bland Shire with approximately 20 Rotary members from 3 Ku-ring-gai Clubs. We were there for a family concert and fun day which was a huge success and very well attended by locals.

Five of our local Rotary Clubs raised \$16,500 for the event and they were assisted in organising the day by the West Wyalong Rotary and Bland Shire Council.

Could you, as Mayor, write to thank all concerned especially Peter Matthews, Paul le May and Barry Edmundson who were the prime organisers?

Answer by the Mayor

It would be my pleasure.

392 Horace Street Traffic Facilities - Briefing

File: 88/05558/03

Question Without Notice from Councillor E Malicki

Are you aware we were supposed to have a briefing on Horace Street traffic facilities before 18 September and this has not been held?

Answer by Director Operations

I am still collecting data on that particular issue and I will hope to bring it back possibly at the same time around about the Finance Committee or the Policy Committee.

393 Notification of Tree Removal Applications to Councillors - Area of Wolseley & Treatts Roads, Lindfield

Files: 88/06142/04, 88/06234/04

Question Without Notice from Councillor J Anderson

A report has recently been provided to Council identifying critically endangered Blue Gum High Forest in the area of Wolseley and Treatts Roads, Lindfield and so could the General Manager please notify Ward Councillors, as soon as possible, if any applications for tree removal are received in this vicinity?

Answer by the General Manager

Happy to do that.

394 Roseville Chase Shopping Precinct - Expenditure for Centre Upgrades & Options

File: S02962

Question Without Notice from Councillor J Anderson

Could the Director Operations please report to Ward Councillors as soon as possible as to the amount available in the Business Precinct Fund for expenditure on Centre Upgrades at the Roseville Chase Shopping Precinct and could the Director Operations please arrange a meeting with the Ward Councillors and the Mayor to discuss options?

Answer by the Director Operations

I will report back.

395 **Draft Submission to Heritage Act Review Panel**

File: S06150

Question Without Notice from Councillor L Bennett

Could the General Manager please advise me if staff will be preparing a draft submission to the Heritage Act Review Panel for consideration by Councillors prior to the 8 October 2007 deadline?

Answer by the General Manager

Yes, I believe they will.

396 **100th Birthday Congratulations to Mrs Ruth Oldfield, Widow of Bert Oldfield**

File: S04813

Question Without Notice from Councillor L Bennett

Could the Mayor and General Manager please appropriately extend Council's congratulations and best wishes to Mrs Ruth Oldfield, widow of Bert Oldfield, on the occasion of her 100th Birthday?

Answer by the Mayor

Absolutely.

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

The next Inspections Committee will take place on Wednesday, 17 October 2007 to view the following properties:

8 Arnold Street, Killara
12 Woonona Avenue, Wahroonga

The Meeting closed at 1.07am

The Minutes of the Ordinary Meeting of Council held on 25 September 2007 (Pages 1 - 78) were confirmed as a full and accurate record of proceedings on 16 October 2007.

General Manager

Mayor / Chairperson

DELEGATION OF AUTHORITY – MAYOR

That, in addition of the role referred to in Section 226 of the Local Government Act 1993 and by authority of Section 377 of the Local Government Act 1993 and subject to compliance with any other requirements of the Local Government Act or Regulations and expressed Policy of the Council or regulations of any public authority concerned other than the Council, the Mayor, Councillor Nick Ebbeck be and is hereby authorised to exercise or perform on behalf of the Council, the following powers, authorities, duties and functions, and that such delegations shall remain in force unless otherwise revoked or amended in whole or in part, as Council may from time to time determine:

1. Donations

To approve donations up to the sum of \$250 subject to Council being informed of any such decision, provided that funds are available within the sum voted by Council for donations in the adopted Management Plan.

2. Mayoral Reception

To authorise expenditure for minor civic receptions for visitors up to a maximum of \$500 for any one reception provided that funds are available within the sum voted by Council in the adopted Management Plan.

3. Temporary General Manager during General Manager's Leave

In accordance with Section 351(1)(a) of the Local Government Act, the Mayor be given the authority to appoint, after consultation with the General Manager, a temporary General Manager, during the absence of the General Manager on leave.

4. General Manager – Leave

Authority to approve applications for holidays and leave of absence to the General Manager.

DELEGATION OF AUTHORITY – DEPUTY MAYOR

The Deputy Mayor may exercise any function of the Mayor at the request of the Mayor or if the Mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of Mayor.

That the Deputy Mayor shall exercise the Delegation of Authority of the Mayor in those cases where the General Manager certifies that the matter is of such an urgent nature that it will not wait until the return of the Mayor.