

## MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 22 AUGUST 2006

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

Staff Present: General Manager (John McKee)  
Acting Director Finance & Business (John Clark)  
Director Development & Regulation (Michael Miocic)  
Director Technical Services (Greg Piconi)  
Director Open Space & Planning (Steven Head)  
Manager Urban Planning (Antony Fabbro)  
Strategic Planner (Craig Wyse)  
Urban Design Architect (Ling Lee)  
Director Community Services (Janice Bevan)  
Senior Governance Officer (Geoff O'Rourke)  
Minutes Secretary (Christina Randall-Smith)

*The Meeting commenced at 7.03pm*

*The Mayor offered the Prayer*

### DECLARATIONS OF INTEREST

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

No interest was declared.

**Councillor Bennett arrived**

### 304 Confirmation of Reports to be Considered in Closed Meeting

File: S02499

#### **Resolved:**

(Moved: Councillors Ebbeck/Cross)

- A. That in accordance with the provisions of Section 10 of the Local Government Act 1993, all officers' reports be released to the press and public, with the exception of:
- C.1: Purchase of 102 Rosedale Road for Conservation - (*Section 10A(2)(c) - Information that would confer a commercial advantage*) - Mayoral Minute dated 14 August 2006.
- B. That the Community Consultation on Entry Signs Summary of Responses to the Exhibition be released to the press & public without names & addresses of those who responded.

**CARRIED UNANIMOUSLY**

**Councillor Shelley arrived**

### **ADDRESS THE COUNCIL**

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

D Mepstead

### **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:

Late Items: Minutes of Extraordinary Meeting of Council held Wednesday, 16 August 2006

Refer GB.1 - Roseville Centre - Draft LEP & Draft DCP - Attachment 2: Roseville Centre Draft DCP & Confidential Attachment 3: Economic Feasibility Assessment by BEM Property Consultants

Refer GB.11 - Sportsground Management in NSW - Attachment to Report - Sportsground Management Inquiry Submission

New Item - Refer GB.22 - Turramurra Railway Station Pedestrian Overbridge & Attachments - Report by Acting Director Finance & Business & Director Open Space & Planning dated 21 August 2006

New Item - Refer NM.2 - Establishment of New Facilities Committee - Notice of Rescission by Councillors Ebbeck, Ryan & Lane dated 9 August 2006

- Refer GB.23: LGA Conference 2006 - Submission of Motions - Report by the General Manager dated 22 August 2006
- Refer GB.1: Roseville Centre Draft LEP & Draft DCP - Memorandum by Manager Urban Planning dated 22 August 2006
- Refer GB.19: Council Facilities Committee Charter - Memorandum by Director Technical Services dated 21 August 2006

305 **Document Tabled from Department of Planning**

File: S02921

Councillor Hall tabled a document from the Department of Planning regarding correspondence and minutes of a Ministerial meeting of 20 August 2001 between Dr Refshauge and Council.

**Resolved:**

(Moved: Councillors Hall/Ebbeck)

That the document be tabled and included in the Minutes of Council as a public record (**Attachment A**).

*For the Resolution: Councillors Andrew, Cross, Ebbeck, Hall, Lane, Ryan, Shelley & Anderson*

*Against the Resolution: The Mayor, Councillor E Malicki & Councillor Bennett*

**Motion of Dissent**

During debate on the above matter, a Motion of Dissent was moved on the Mayor's ruling on a point of order.

When put to the vote, the Motion of Dissent was CARRIED.

*For the Motion of Dissent: Councillors Andrew, Cross, Ebbeck, Hall, Lane & Ryan*

*Against the Motion of Dissent: The Mayor, Councillor E Malicki, Councillors Bennett, Shelley & Anderson*

**CONFIRMATION OF MINUTES**306 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 8 August 2006  
Minutes numbered 287 to 303

**Resolved:**

(Moved: Councillors Cross/Ebbeck)

That Minutes numbered 287 to 303 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

**CARRIED UNANIMOUSLY**

307 **Minutes of Extraordinary Meeting of Council**

File: S02131

Meeting held 16 August 2006  
Minute numbered EMC8

**Resolved:**

(Moved: Councillors Ebbeck/Cross)

That Minutes numbered EMC8 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

*For the Resolution:*            *Councillors Andrew, Bennett, Cross, Ebbeck, Lane,  
Ryan & Anderson*

*Against the Resolution:*    *The Mayor, Councillor E Malicki, Councillors Hall &  
Shelley*

**MINUTES FROM THE MAYOR**308 **Relocation of Killara Croquet Club**

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File: S02428

I have been concerned for some time about the proposal to relocate the Killara Croquet Club from Regimental Park to West Lindfield, particularly since the Water Board have informed Council that they do not need to take further action at Regimental Park for at least a decade.

This decision is causing distress to a group who have occupied their site for many years, and who contributed a major amount of their clubhouse which cannot be moved when they relocate.

I believe that Council needs to be involved in any decision making on this issue.

**Resolved:**

That consideration of the relocation of Killara Croquet Club at Regimental Park, Killara to West Lindfield Sport & Recreation Club be deferred pending a site inspection of both the present & proposed sites.

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

*Against the Resolution:    Councillor Ryan*

**PETITIONS**309 **Balfour Lane Car Park, Lindfield - Request for Restricted Parking –  
(One Hundred & Fifty-One [151] Signatures**

.  
File: 88/06277/03

"It has come to our attention that the Balfour Lane car park is owned by Ku-ring-gai Council and at present, there is no time restriction on car spaces. These spaces are more than often occupied by commuters from early in the morning until late afternoon.

After numerous complaints from our customers about the lack of available parking spaces we have come to the realisation that the parking is being utilised predominantly by commuters who are parking there first thing in the morning and not returning to their cars until last thing in the afternoon.

This is directly affecting our business and that of other businesses in the direct vicinity as customers cannot get a parking space and are being forced to shop in other suburbs where they can park close to their retail outlets.

We have noted that in the Meeting of Council (Lindfield Centre Recommendations) report dated 11 May 2006 that the responses from residents in Lindfield noted that the worst point about living in Lindfield was the lack of parking.

To ease the situation in this area, we propose that Council place restrictions of two (2) or three (3) hours on the parking spaces to enable them to be turned over throughout the day."

**Resolved:**

(Moved: Councillors Shelley/Anderson)

- A. That the Petition be received and referred to the appropriate officer of Council for a report to Council.
- B. That a response be forwarded to the head petitioner regarding the action to be taken.

**CARRIED UNANIMOUSLY**

310 **37 Ryde Road, Pymble - Strong Opposition to Signage & Proposed Removal of Trees - (Twenty-three [23] Signatures)**

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File: DA0833/06

**The following Petition was presented by Councillor Lane:**

"We, the undersigned, being residents adversely affected by DA 833/06 presently before Council, strongly oppose approval of the following elements of the application:

**1. ROOF SIGNAGE:**

- a. We do not object to building identification signage per se but oppose the application for placement of an illuminated sign approximately 4.3m x 1 .6m in dimension on the tallest part of the building ie. lift motor room wall. No similarly positioned signage has been adopted by any of the applicant's corporate neighbours.

- b. As the proposed roof signage is set well back from the roof perimeter, its building identification value to passing traffic is very limited. In fact, such signage would not be visible at all to eastbound traffic, regardless of proximity to the building. Mature eucalypts on the upper side of the building would largely obscure the proposed roof signage from westbound traffic until in close proximity.
- c. The roof signage will, however, be very visible to numerous residents on the opposite side of Ryde Rd and the impact will be much worsened by the signs:
  - 1. Prominent illumination each night
  - 2. Much closer vertical plane to the affected residents. Many of the residents' dwellings are on a sandstone ridge rising up to 4m above Ryde Rd and nearly level with the upper storey of the applicant's building.
- d. If the proposed roof sign is of very limited benefit as building identification, its only other possible value would be to serve the applicant's corporate advertising objectives.

As the roof sign would be totally obscured from nearly all eastbound traffic, and largely obscured from westbound traffic, it will again be pre-existing residents living in a residential zone who will suffer the sight of unwanted passive daytime advertising and the excessive intrusion of evening illuminated signage.

## **2. TREE REMOVAL:**

- a. The applicant's building has been in situ for more than 25 years and the trees in question have been part of the immediate tree-scape for all of that time. We are not aware of any justification for their removal that would not have applied to previous occupants of the building.
- b. Current Ryde Rd numbering of the building is visible to eastbound traffic and any improvements to street numbering do not require removal of any trees. These trees are on the Ryde Rd nature strip and in a modest way are a natural extension of Council's heavily timbered and recently upgraded AGAL Reserve which is alongside, and to the rear, of the applicant's property".

### **Resolved:**

(Moved: Councillors Lane/Ryan)

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

**CARRIED UNANIMOUSLY**

**GENERAL BUSINESS**

311 **66 Roseville Avenue, Roseville - First Floor Addition & Alterations to Ground Floor**

File: DA0426/06

Ward: Roseville

Applicant: Lindsay Little & Associates Pty Ltd

Owner: Mr & Mrs Waggett

**The following members of the public addressed Council:**

**H Little**

**C Waggett**

To determine development application No.426/06, which seeks consent for a first floor addition and alterations to ground floor of an existing dwelling house.

**Resolved:**

(Moved: Councillors Shelley/Anderson)

- A. That consideration of DA0426/06 at 66 Roseville Avenue, Roseville 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.

*The above Motion when put to the vote was LOST*

(See Minute No 328 for the Council Resolution on the Item)

312 **Analysis of Land & Environment Court Costs 2005/2006**

File: S02466

To provide information in relation to proceedings to which Council is a party in the Land & Environment Court for the year ended 30 June 2006.

**Resolved:**

(Moved: Councillors Shelley/Ebbeck)

That the analysis of Land & Environment Court costs for the 2005/2006 financial year be received and noted.



**CARRIED UNANIMOUSLY****313 2005 to 2009 Management Plan, 4th Quarter Review as at 30 June 2006**

.  
File: S03918

To report to Council on progress made toward achieving Key Performance Indicators as contained in Council's 2005-2009 Management Plan.

**Resolved:**

(Moved: Councillors Shelley/Ryan)

That the report on the progress of the Key Performance Indicators contained in the 2005-2009 Management Plan for the 4<sup>th</sup> quarter of the plan, be received and noted.

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

*Against the Resolution:      Councillor Bennett*

**314 Investment Cash Flow & Loan Liability as at 30 June 2006**

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File: S02722

To present to Council the Investment allocation and the performance of funds, monthly cash flow and details of loan liability for June 2006.

**Resolved:**

(Moved: Councillors Shelley/Hall)

That the summary of investments, daily cash flows and loan liability for June 2006 is received and noted.

**CARRIED UNANIMOUSLY****315 Investment Cash Flow & Loan Liability, July 2006**

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File: S02722

To present to Council the investment allocation and the performance of funds, monthly cash flow and the details of loan liability for July 2006

**Resolved:**

(Moved: Councillors Shelley/Hall)

That the summary of investments, daily cash flows and loan liability for July 2006 is received and noted.

**CARRIED UNANIMOUSLY**

316

**Concrete Works, 2006 to 2007 - Schedule of Rates Contractor List**

File: S04798

To consider the appointment of tenders to a list of Schedule of Rates Contractors for Concrete Works for 2006/2007.

**Resolved:**

(Moved: Councillors Shelley/Cross)

- A. That Council accepts the Schedule of Rates for Concrete Works submitted by the following tenderers and these tenderers make up the list of Contractors to be engaged as needed for the construction, reconstruction, restoration and repair of concrete footpaths, kerbs, gutters and associated works for the period ending 30 June 2008.

Gilcon Civil Constructions Pty Ltd  
CW Concrete Pty Ltd  
Performance Concreting Services  
Kelbon Concrete and Paving  
Comfortone Constructions Pty Ltd  
Foster Civil Contracting Construction Pty Ltd  
Sydney Harbour Paving Pty Ltd  
Aston & Bourke Pty Ltd  
Ally Property Services Pty Ltd  
Gilberts Asphalt Pty Ltd  
Timecon Pty Ltd

- B. That letters of acceptance be forwarded to the listed contractors.
- C. That the Common Seal of Council be affixed to necessary documents.

**CARRIED UNANIMOUSLY**

317 **2006 to 2007 RTA Program Funding**

File: S02388

To approve Council's allocation of the 2006-2007 Roads and Traffic Authority Program Funding and to accept the Block Grant for 2006-2007.

**Resolved:**

(Moved: Councillors Shelley/Ryan)

- A. That Council accepts the grant offer of \$50,000 for the Kissing Point Road cycleway extension under the Traffic Management Program.
- B. That Council accepts the grant of \$39,000 under the Road Safety Program.
- C. That Council accepts the grant of \$225,000 from the Roads and Traffic Authority under the 2006-2007 REPAIR Program for pavement rehabilitation of The Comenarra Parkway between Hicks Avenue and Stainsby Close and Lady Game Drive between Highfield Road and 500m south of Highfield Road.
- D. That Council not accept the Traffic Facilities component of the Regional Road Block Grant for 2006-2007 and continue to use RTA resources to carry out traffic facilities work.
- E. That Council accepts the Roads component of \$183,000 and the Supplementary Road Component of \$82,000 of the Regional Roads Block Grant for 2006-2007.

**CARRIED UNANIMOUSLY**

318 **Five Year Footpath Program 2006 to 2011**

File: S02627

To seek Council's approval of a Five Year Rolling New Footpath Program for the years 2006 to 2011.

**Resolved:**

(Moved: Councillors Shelley/Ryan)

That Council adopts the 2006 to 2007 New Footpath Program and the 2007 to 2011 program as a draft rolling program.

**CARRIED UNANIMOUSLY**

319 **Capital Works Program for Traffic Facilities 2006 to 2011**

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File: S03753

To seek Council approval for the Capital Works Program for Traffic Facilities for 2006 to 2011.

**Resolved:**

(Moved: Councillors Shelley/Hall)

That Council adopts the 2006 to 2007 Traffic Facilities Program and the draft 2007 to 2011 Program.

**CARRIED UNANIMOUSLY**

320 **2005 to 2006 Budget Review 4th Quarter Ended June 2006**

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File: S04708

To present to Council the end of year financial review for 2006.

**Resolved:**

(Moved: Councillors Shelley/Ryan)

That Council note and receive the contents of this report.

**CARRIED UNANIMOUSLY**

321 **Ravenswood School for Girls - Deed of Lease over a Portion of Road Reserve in Henry Street, Gordon**

.  
File: P54726

Ward: Gordon

For Council to grant a further lease to the Uniting Church in Australia Property Trust (NSW) for and on behalf of, Ravenswood School for Girls (Ravenswood) over a portion of road reserve in Henry Street, Gordon for car parking purposes.

**Resolved:**

(Moved: Councillors Ryan/Lane)

- A. That Council approve the Lease between Council and the Uniting Church in Australia Property Trust (NSW) for and on behalf of Ravenswood School for Girls over a portion of road reserve in Henry St Gordon having an area of approximately 860 sq metres for car parking purposes associated with the operation of the school.
- B. That Public Notice be given of the proposed lease in accordance with the provisions of the Section 154 Roads Act 1993.
- C. That the Mayor and General Manager be authorised to execute all documentation associated with Deed of Lease.
- D. That the Council Seal be affixed to the Deed of Lease.

**CARRIED UNANIMOUSLY**

322

**Turramurra Railway Station Pedestrian Overbridge**

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File: S04038

To inform Council of RailCorp's proposal to widen the pedestrian overbridge at Turramurra railway station including the contribution being sought by RailCorp in relation to the additional costs of widening the bridge.

**Resolved:**

(Moved: Councillors Cross/Ebbeck)

- A. That Council re-confirm its support for a wider pedestrian overbridge at Turramurra railway station subject to further negotiations regarding the level of contribution being sought by RailCorp.
- B. That the Mayor requests an urgent meeting with Mr Barry O'Farrell, State Member for Ku-ring-gai, and that Council write to the Minister for Transport and the Department of Planning to assist Council in its negotiations with RailCorp.

**CARRIED UNANIMOUSLY**

323 **Pymble Centre Draft Local Environmental Plan & Draft Development Control Plan - Corrections**

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File: S04291

To have Council consider and adopt a minor amendment to the Pymble Centre Draft Local Environmental Plan and Draft Development Control Plan prior to finalisation of the documentation for formal exhibition.

**Resolved:**

(Moved: Councillors Shelley/Hall)

- A. That the Pymble Centre Draft Local Environmental Plan Height Map considered by Council on 25 July 2006 be amended as follows;
  - i. Precinct C (855 to 915 Pacific Highway) – be amended to show a maximum 3 storeys in height.
- B. That the Pymble Centre Draft Development Control Plan be amended as follows:
  - i. That Precinct K (1070 to 1072 Pacific Highway) Block Plan be amended to show the revised building envelopes, consistent with the adopted Local Environmental Plan, zoning, height and FSR, on an amalgamated site which includes the properties 1070 to 1072 and 1074 Pacific Highway and excludes 1A Orinoco Street.

**CARRIED UNANIMOUSLY**

**MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**

324 **Transport Policy - for Local Schools**

.  
File: S02527

**Notice of Motion from Councillor T Hall dated 14 August 2006.**

As a community that respects its lifestyle values and has regard for the health of its residents particularly the health and welfare of their children attending the local schools in Ku-ring-gai, and to reduce the local traffic congestion around local schools;

I move:

"That this Council consider amending its Traffic & Transport Policy to reflect better methods of encouraging parents with young children attending local schools to take more advantage of public transport or walking to and from their local school where appropriate, to address the community's general growing concerns about adolescent obesity.

"That the General Manager be requested to provide a report on ways and means of Council achieving this objective in co-operation with parents, transport, local school and other authorities and community organisations, during the current calendar year and that the policy resolved upon be incorporated into Council's next management and current community plans for appropriate action and publicity."

**Resolved:**

(Moved: Councillors Hall/Lane)

That the above Notice of Motion, as amended, be adopted.

**CARRIED UNANIMOUSLY**

*Standing Orders were suspended to deal with GB.12  
& then all items where there are speakers, the  
Motion was moved by Councillors Hall & Ebbeck*

*For the Motion: Councillors Andrew, Cross, Ebbeck, Hall, Lane,  
Ryan, Shelley & Anderson*

*Against the Motion: The Mayor, Councillor E Malicki & Councillor  
Bennett*

**GENERAL BUSINESS (cont)**

325 **Trial Use of Warrimoo Oval as Dog Off-Leash Area**

File: SO2038

**The following member of the public addressed Council:**

**M Milwidsky**

To report to Council on the trial use of Warrimoo Oval and Queen Elizabeth Reserve sportsfield as a dog off-leash area.

**Resolved:**

(Moved: Councillors Hall/Bennett)

- A. That the following sites be resolved as recognised off-leash areas whenever the sportsfield area is not being used for organised sport and games:
  - i. Warrimoo Avenue Oval
  - ii. Queen Elizabeth Reserve Sportsfield
- B. That Toolang Oval no longer be recognised as a designated dog off leash area under the Companion Animals Act.
- C. That the funding allocated for upgrades to the Toolang Sportsfield in 2005/06 be considered in the carry forward for 2005/06 capital works and to be used to embellish the next off-leash area on the priority list.
- D. That Warrimoo Oval as a dog off leash area be prioritised in accordance with Council's matrix for Capital Works expenditure on embellishment of dog off leash areas.

**CARRIED UNANIMOUSLY**

326

**Roseville Centre - Draft Local Environmental Plan & Draft Development Control Plan**

File: S04365

**The following members of the public addressed Council:**

**D Durie  
R Howard  
D Howard  
N Kannecieter  
S Ricketts  
P Wilkinson  
E Giannone  
S Mortlock  
B Walker  
D Pratt**

To have Council consider and adopt the draft Local Environmental Plan (LEP), Draft Development Control Plan (DCP and associated strategies for the Roseville Centre and submit the Draft Plans to the Department of Planning to seek their approval for formal exhibition of the Draft LEP and Draft DCP.

**Resolved:**

(Moved: Councillors Shelley/Anderson)

- A. That Council adopt the Draft Ku-ring-gai (Town Centres) Local Environmental Plan -Amendment (No 3), as it applies to the Roseville Centre, for exhibition as attached to the report.



- i. That the Draft LEP FSR Map for the site on the corner of MacLaurin Parade and Larkin Lane for the minimum commercial/retail FSR be changed from 0.5 :1 to 0.3 :1

*For the Resolution:*            *Councillors Andrew, Bennett, Cross, Ebbeck, Hall, Lane, Ryan, Shelley and Anderson*

*Against the Resolution:*    *The Mayor, Councillor E Malicki*

- B. That Council adopt the Draft Ku-ring-gai (Town Centres) Development Control Plan for the Roseville Centre including further minor amendments as necessary to ensure consistency with Council's adopted Draft Local Environmental Plan and with gazetted Standard Instrument Local Environment Plans Order 2006.
  - i. That the maximum heights contained with the Draft Development Control plan be amended to be consistent with the Draft Local Environmental Plan Maps.

**CARRIED UNANIMOUSLY**

- C. That Council write to the Director General, Department of Planning under Section 64 Environmental Planning and Assessment Act requesting that a Certificate under Section 65(2) be issued for exhibition of the Draft Local Environmental Plan applying to the Roseville Centre.

**CARRIED UNANIMOUSLY**

- D. That subject to a Certificate under Section 65(2) being issued, Council exhibit for a minimum period of 28 days the Draft Local Environmental Plan and Draft Development Control Plan as required by the Environmental Planning and Assessment Act 1979.

**CARRIED UNANIMOUSLY**

- E. That following the exhibition period a further report be presented to Council with an assessment of submissions and a final Local Environmental Plan and Development Control Plan for adoption.

**CARRIED UNANIMOUSLY**

- F. That the economic feasibility information be released to the Department of Planning on a confidential basis to support Council's request for a Certificate to exhibit the Draft Plan.

**CARRIED UNANIMOUSLY**

(Moved: Councillors Bennett/Cross)

- H. That Council adopt the recommended traffic improvements for Roseville as outlined in this report. That a report comes to Council as to whether Council should seek support from NSROC for the widening of the major intersections on the Pacific Highway at crossover points at Roseville & Lindfield as infrastructure necessary for the population increases under Stage II and that a meeting with the relevant Minister be sought by the Mayor and General Manager.

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

*Against the Resolution: Councillors Hall & Shelley*

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

*H. That Council adopt the recommended traffic improvements for Roseville as outlined in the report.*

- I. That the Draft Local Environmental Plan be exhibited in accordance with the requirements of Local Environmental Plans and *Council Land Best Practice Guideline* (January 1997).

**CARRIED UNANIMOUSLY**

- K. That a Parking Management Plan be prepared and reported to Council prior to gazettal of the Draft Local Environmental Plan for the Roseville Centre.

**CARRIED UNANIMOUSLY**

- L. That Council acknowledge those who have made submissions and that they be informed of Council's resolution.

**CARRIED UNANIMOUSLY**

- M. That appropriate planning controls be prepared under the be Ku-ring-gai comprehensive LEP and DCP to minimise the impact of the areas zoned R4 High density under the draft LEP on the adjoining residential areas.

**CARRIED UNANIMOUSLY**

(Moved: Councillors Malicki/Cross)

- N. That Precinct H remain at R3. The Mayor and General Manager to seek an urgent meeting with the Director General to put the case for retaining this re-zoning given this small discrepancy on floor space ratio. If we are unsuccessful, the matter should be brought back to Council on 12<sup>th</sup> September.

**CARRIED UNANIMOUSLY**

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

- N. *In relation to precinct H, the land be zoned R4 with a maximum FSR of 1.1:1, a maximum height of 4 storeys and a 12 metre setback for 5 Oliver Road and 4 Roseville Avenue be provided. Further development controls to be examined during the exhibition period.*
- P. That diagram 2.2.15 (page 33), which makes reference to the draft built form strategies [setbacks required], be removed from the draft DCP documentation.

**CARRIED UNANIMOUSLY**

*The following are the Lost Parts of the Motion*

(Moved: Councillors Shelley/Anderson)

- G. *That the Draft Local Environmental Plan propose reclassification of the following Sites from community land to operational land:*

| <i>Map Ref</i> | <i>Property Location</i>   | <i>Property Description</i>   | <i>Property Name</i> |
|----------------|----------------------------|---|----------------------|
| 1              | 2 Lord Street<br>Roseville | Lot 4 DP225030,<br>Lot 1 DP556917,<br>Lot 3 DP556955,<br>Lot 5 DP559096,<br>Lot 7 DP561031,<br>Lot 9 DP563301,<br>Lot 11 DP575457 | Car Park No.7        |

*Part G(1) of the Motion when put to the vote was LOST*

| <i>Map Ref</i> | <i>Property Location</i> | <i>Property Description</i>  | <i>Property Name</i> |
|----------------|--------------------------|--|----------------------|
| 2              | Larkin Lane<br>Roseville | Lot 11 DP861578,<br>Lot 22 DP595126,<br>Lot 1 DP502277,<br>Lot 1 DP215188,<br>Lot 1 DP500309,<br>Lot 2 DP511183,<br>Lot 1 DP501603,<br>Lot 2 DP511182,<br>Lot 1 DP215231,<br>Lot 2 DP505005,<br>Lot 2 DP507593,<br>Lot 2 DP504082, | Car Park No.3        |

*Lot 1 DP500045,  
Lot 1 DP505371*

*Part G(2) of the Motion when put to the vote was LOST*

- J. That a public hearing be conducted in respect to the reclassification of Council land as part of the Local Environmental Plan exhibition in accordance with the relevant provisions of the Local Government Act 1993.*

*Part J of the Motion was no longer required as  
Part G (1 & 2) of the Motion were LOST*

- O. That the properties numbered 2-20 Shirley Road be included in an R3 Zone, with a maximum FSR of 0.8:1 and a maximum height of 3 storeys.*

*Part O of the Motion when put to the vote was LOST*

**Council adjourned for a short interval at 10.25pm  
after a Motion moved by Councillors Shelley & Ebbeck was CARRIED  
and the Chairperson ruled accordingly.  
The Meeting resumed at 10.40pm**

Those present were:

The Mayor, Councillor Malicki  
Councillor Andrew  
Councillor Hall  
Councillor Cross  
Councillor Ebbeck  
Councillor Shelley  
Councillor Anderson  
Councillor Lane  
Councillor Ryan

327 **15 to 19 Turramurra Avenue & 1 & 1A Wonga Wonga Street, Turramurra**

File: DA0068/06

Ward: Wahrenonga

To refer the application back to Council following a site inspection and to address submissions made at and following the site inspection.

**Resolved:**

(Moved: Councillors Cross/Ebbeck)

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 25L (Zone Interface) of the Ku-ring-gai Planning Scheme Ordinance is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the proposal meets the underlying objectives of the control and will not result in a significant impact.

That Council, as the consent authority, grant development consent to for the demolition of existing structures, lot consolidation and the construction of a residential flat development containing two buildings (49 Units), basement car-parking and landscaping at 15-19 Turramurra Avenue and 1-1A Wonga Wonga Street, Turramurra for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

### GENERAL CONDITIONS

1. The development must be carried out in accordance with the following stamped approved plans and documentation, except where amended by conditions of consent:

| Plan Nos                                | Date of Plan  | Prepared by:                 |
|---|---------------|------------------------------|
| TUR-AR-DA001-<br>DA017 inclusive Rev 01 | December 2005 | Sandberg Schoffel Architects |
| TUR-AR-DA-020                           | December 2005 | Sandberg Schoffel Architects |
| TUR-AR-DA-022 Rev 00                    | December 2005 | Sandberg Schoffel Architects |
| TUR-AR-DA-023 Rev 01                    | February 2006 | Sandberg Schoffel Architects |
| TUR-AR-DA-027 Rev 01                    | December 2005 | Sandberg Schoffel Architects |
| TUR-AR-DA-032                           | December 2005 | Sandberg Schoffel Architects |
| 5064-01 Issue E Landscape Plan          |               | Peter Glass & Associates     |

| Document Title                        | Date of Document | Prepared by:                   |
|---------------------------------------|------------------|--------------------------------|
| Geotechnical<br>Investigation Report  | 19 January 2006  | Jeffery & Katauskas<br>Pty Ltd |
| BASIX Certificate<br>Cert. No. 50420M | 25 January 2006  |                                |

2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
3. To ensure minimal environmental impacts all works are to be carried out in accordance with the BASIX certificate/ commitments lodged for this application.

- 3A. To ensure minimal environmental impact, the existing sandstone and windows of 15 Turramurra Avenue, Turramurra must be recycled. These materials must be removed from the site and forwarded to an appropriate person(s)/ business dealing with recycling materials. When removing the materials they must be kept in good order, as far as practical, to maintain their current condition.
4. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
5. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
6. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
7. HOURS OF WORK: For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.
- Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.
8. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.

9. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
- 9A. To ensure minimal amenity impacts to adjoining properties noise emission from the mechanical ventilation system including fan units is not to exceed that background noise level when measured at the nearest property boundary.
10. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
11. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
  - a. The type and size of machinery proposed.
  - b. The routes of all trucks to convey material to and from the site.
  - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
12. With regard to the proposed rock breaking the following conditions are to be observed:
  - a. The Geotechnical Engineer shall supervise the works in progress.
  - b. A dilapidation report on adjoining or nearby properties shall be prepared prior to any excavation, rock breaking, or associated work commencing and shall be submitted to the Principal Certifying Authority.
  - c. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
  - d. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
13. For the purpose of maintaining visual amenity, no permanent electricity supply poles are to be erected forward of the building setback without the prior Consent of Council. It is the onus of the applicant to consult with the authorised statutory electricity provider prior to construction commencing to ensure that direct connection to the building is possible. Details of any proposed permanent pole must be submitted to and approved by Council prior to installation.

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

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

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

In this clause, allotment of land includes a public road and any other public place.
17. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
20. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
21. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover



Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

22. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
23. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
  - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
    - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
    - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
    - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
  - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
24. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
25. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
26. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
27. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
28. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.

29. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
30. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
31. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 *“Traffic Control Devices for Work on Roads”*. **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
32. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
33. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
34. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
35. Your attention is directed to the operation of the Commonwealth Disability Discrimination Act 1992, which may impose greater obligations on providing access to disabled persons other than compliance with the Building Code of Australia. You are advised to seek advice from the Human Rights and Equal Opportunity Commission (phone (02) 9284 9600) in respect of your application.
36. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council’s Tree Preservation Order) without prior written consent of Council is prohibited.
37. The proposed building structure shall be constructed in a proper and workmanlike manner to achieve the required level of performance required by the Building Code of Australia for a building as described below:

Building Classification: Class 2 (Residential Areas) and Class 7  
(Basement Car park)  
Rise in Storey: 5  
Type of Construction Type A Construction Required

38. Removal, or pruning of the following trees, is not approved as part of this Development Application:

Tree/ Location

#8 *Eucalyptus pilularis* (Blackbutt)  
Adjacent to northern site boundary

#11 *Eucalyptus pilularis* (Blackbutt)  
Adjacent to western site boundary

#13 *Acer buergeranum* (Trident Maple)  
Adjacent to western site boundary

#14 *Eucalyptus pilularis* (Blackbutt)  
Adjacent to western site boundary

#15 *Eucalyptus pilularis* (Blackbutt)  
Adjacent to western site boundary

#22 *Metasequoia glyptostroboides* (Dawn Redwood)  
Adjacent to eastern site boundary

#24 *Fraxinus oxycarpa* 'Raywoodii' (Claret Ash)  
Adjacent to eastern site boundary

#25 *Chamaecyparis obtusa* (Hinoki Cypress)  
Adjacent to eastern site boundary

#27 *Acer palmatum* (Japanese Maple)  
Adjacent to eastern site boundary

#31 *Corymbia citriodora* (Lemon scented gum)  
Adjacent to eastern site boundary in neighbouring property

#32 *Brachychiton acerifolius* (Illawarra Flame Tree)  
Adjacent to southern site boundary in neighbouring property

39. Approval is given under this development consent for the following tree works to be undertaken to trees within the subject property:

| Tree/Location                                   | Tree Works |
|---|------------|
| #1 <i>Arbutus unedo</i> (Irish Strawberry Tree) | Removal    |

Centrally located on site

#2 *Callistemon viminalis* (Weeping bottlebrush) Removal  
Within northern setback

#3 *Camellia japonica* (Japanese camellia) Removal  
Adjacent to northern site boundary

#4 *Celtis australis* (Hackberry) Removal  
Adjacent to northern site boundary

#5 *Acer palmatum* (Japanese Maple) Removal  
Adjacent to northern site boundary

#6 *Camellia sasanqua* (Chinese Camellia) Removal  
Within proposed building footprint

#9 *Pittosporum undulatum* (Native Daphne) Removal  
Northwest site corner

#10 *Chamaecyparis obtusa* (Hinoki Cypress) Removal  
Adjacent to western site boundary

#16 *Quercus palustris* (Pin Oak) Removal  
Adjacent to western site boundary

#17 *Quercus palustris* (Pin Oak) Removal  
Adjacent to western site boundary

#18 *Celtis australis* (Hackberry) Removal  
Centrally located on site

#19 *Acer palmatum* (Japanese Maple) Removal  
Within proposed building footprint

#20 *Liriodendron tulipifera* (Tulip tree) Removal  
Within proposed building footprint

#21 *Acer palmatum* (Japanese Maple) Removal  
Within proposed building footprint

#23 *Jacaranda mimosifolia* (Jacaranda) Removal  
Adjacent to eastern site boundary

#28 *Acer palmatum* (Japanese Maple) Removal  
Within proposed building footprint

#30 *Lagerstroemia indica* (Crepe Myrtle) Removal  
Centrally located on site

#33 *Callistemon salignus* (Willow Bottlebrush) Removal  
Turramurra Ave nature strip

#34 *Nyssa sylvatica* (Tupelo) Removal  
Turramurra Ave nature strip

#35 *Nyssa sylvatica* (Tupelo) Removal  
Turramurra Ave nature strip

#36 *Callistemon viminalis* (Weeping Bottlebrush) Removal  
Turramurra Ave nature strip

#37 *Robinia pseudoacacia* (Black Locust) Removal  
Turramurra Ave nature strip

#38 *Robinia pseudoacacia* (Black Locust) Removal  
Turramurra Ave nature strip

#39 *Callistemon salignus* (Willow Bottlebrush) Removal  
Turramurra Ave nature strip

#40 *Callistemon salignus* (Willow Bottlebrush) Removal  
Turramurra Ave nature strip

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

**Tree/location**

**Time of inspection**

|   |  |
|---|--|
| All existing trees located on site being retained | <p>Prior to demolition</p> <p>At the completion of demolition</p> <p>Prior to excavation works</p> <p>At the completion of excavation works</p> <p>Prior to the start of construction works</p> <p>At monthly intervals during construction</p> <p>At the completion of construction works</p> <p>At the completion of all works on site</p> |
|---|--|

41. REMOVAL/PRUNING of the following tree/s from Council's nature strip shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.

| Tree/Location   | Tree Works |
|---|------------|
| #33 <i>Callistemon salignus</i> (Willow Bottlebrush)<br>Turramurra Ave nature strip   | Removal    |
| #34 <i>Nyssa sylvatica</i> (Tupelo)<br>Turramurra Ave nature strip                    | Removal    |
| #35 <i>Nyssa sylvatica</i> (Tupelo)<br>Turramurra Ave nature strip                    | Removal    |
| #36 <i>Callistemon viminalis</i> (Weeping Bottlebrush)<br>Turramurra Ave nature strip | Removal    |
| #37 <i>Robinia pseudoacacia</i> (Black Locust)<br>Turramurra Ave nature strip         | Removal    |
| #38 <i>Robinia pseudoacacia</i> (Black Locust)<br>Turramurra Ave nature strip         | Removal    |
| #39 <i>Callistemon salignus</i> (Willow Bottlebrush)<br>Turramurra Ave nature strip   | Removal    |
| #40 <i>Callistemon salignus</i> (Willow Bottlebrush)<br>Turramurra Ave nature strip   | Removal    |

42. Root pruning of the following tree/s which may be necessary to accommodate the approved building works shall be undertaken by an experienced Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate:

| Tree/Location  | Tree Works   |
|--|--------------|
| #8 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to northern site boundary | Root pruning |
| #11 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary | Root pruning |
| #14 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary | Root pruning |
| #15 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary | Root pruning |

43. If tree roots are required to be severed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate
44. No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

| Tree/Location   | Radius From Trunk |
|---|-------------------|
| #8 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to northern site boundary  | 15.0m             |
| #11 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 10.0m             |
| #13 <i>Acer buergeranum</i> (Trident Maple)<br>Adjacent to western site boundary  | 4.0m              |
| #14 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 12.0m             |
| #15 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 8.0m              |
| #22 <i>Metasequoia glyptostroboides</i> (Dawn Redwood)<br>Adjacent to eastern site boundary                               | 5.0m              |
| #24 <i>Fraxinus oxycarpa</i> 'Raywoodii' (Claret Ash)<br>Adjacent to eastern site boundary                                | 6.0m              |
| #25 <i>Chamaecyparis obtusa</i> (Hinoki Cypress)<br>Adjacent to eastern site boundary                                     | 5.0m              |
| #27 <i>Acer palmatum</i> (Japanese Maple)<br>Adjacent to eastern site boundary  | 5.0m              |
| #31 <i>Corymbia citriodora</i> (Lemon scented gum)<br>Adjacent to eastern site boundary in neighbouring property          | 9.0m              |
| #32 <i>Brachychiton acerifolius</i> (Illawarra Flame Tree)<br>Adjacent to southern site boundary in neighbouring property | 5.0m              |

45. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug:

| Tree/Location   | Radius From Trunk |
|---|-------------------|
| #8 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to northern site boundary  | 13.0m             |
| #11 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 10.0m             |
| #13 <i>Acer buergeranum</i> (Trident Maple)<br>Adjacent to western site boundary  | 4.0m              |
| #14 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 11.0m             |
| #15 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 7.0m              |
| #22 <i>Metasequoia glyptostroboides</i> (Dawn Redwood)<br>Adjacent to eastern site boundary                               | 5.0m              |
| #24 <i>Fraxinus oxycarpa</i> 'Raywoodii' (Claret Ash)<br>Adjacent to eastern site boundary                                | 6.0m              |
| #25 <i>Chamaecyparis obtusa</i> (Hinoki Cypress)<br>Adjacent to eastern site boundary                                     | 5.0m              |
| #27 <i>Acer palmatum</i> (Japanese Maple)<br>Adjacent to eastern site boundary  | 5.0m              |
| #31 <i>Corymbia citriodora</i> (Lemon scented gum)<br>Adjacent to eastern site boundary in neighbouring property          | 9.0m              |
| #32 <i>Brachychiton acerifolius</i> (Illawarra Flame Tree)<br>Adjacent to southern site boundary in neighbouring property | 5.0m              |

46. Excavation for the installation of CONDUITS/SEWER/STORMWATER/GAS within the specified radius of the trunk/s of the following tree/s shall be carried out using the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground level to minimise damage to tree/s root system

| Tree/Location  | Radius From Trunk |
|--|-------------------|
| #8 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to northern site boundary | 15.0m             |
| #11 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary | 10.0m             |



- |   |       |
|---|-------|
| #13 <i>Acer buergeranum</i> (Trident Maple)<br>Adjacent to western site boundary  | 4.0m  |
| #14 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 12.0m |
| #15 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 8.0m  |
| #22 <i>Metasequoia glyptostroboides</i> (Dawn Redwood)<br>Adjacent to eastern site boundary                               | 5.0m  |
| #24 <i>Fraxinus oxycarpa</i> 'Raywoodii' (Claret Ash)<br>Adjacent to eastern site boundary                                | 6.0m  |
| #25 <i>Chamaecyparis obtusa</i> (Hinoki Cypress)<br>Adjacent to eastern site boundary                                     | 5.0m  |
| #27 <i>Acer palmatum</i> (Japanese Maple)<br>Adjacent to eastern site boundary  | 5.0m  |
| #31 <i>Corymbia citriodora</i> (Lemon scented gum)<br>Adjacent to eastern site boundary in neighbouring property          | 9.0m  |
| #32 <i>Brachychiton acerifolius</i> (Illawarra Flame Tree)<br>Adjacent to southern site boundary in neighbouring property | 5.0m  |
47. To maximise landscape amenity for the site, the following private courtyards are to be amended to ensure that proposed screen planting and tree replenishment is within the ownership of the body corporate. The private courtyards are to be reduced in size as detailed by the following; The courtyards for Units B1 and B5 within the southern side setback are to be deleted, the entire area is to be maintained as communal space; courtyards within the eastern side setback for Unit B5 are to not encroach closer than 6.0m to any site boundary; the private courtyard for Unit B4 is not to exceed any more than 4.0m from the eastern side of Building B; The private courtyard south of Unit A6 is to be deleted and the area maintained as communal open space; The private courtyards on the eastern side of Units A6 and A5 are not to encroach closer than 4.0m from the eastern site boundary.
48. The applicant shall ensure that at all times during the site works no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
49. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Turramurra Ave as an evenly spaced avenue planting. The tree/s used shall be a minimum 25 litre container size specimen/s trees:

| Tree Species                        | Quantity |
|-------------------------------------|----------|
| <i>Eucalyptus saligna</i> (Bluegum) | 7        |

50. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Wonga Wonga St as an evenly spaced avenue planting. The tree/s used shall be a minimum 25 litre container size specimen/s trees:

| Tree Species                        | Quantity |
|-------------------------------------|----------|
| <i>Eucalyptus saligna</i> (Bluegum) | 5        |

51. Following removal of tree #'s 33, 34, 35, 36, 37, 38, 39, and 40 from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council at no cost to Council.
52. Transplanting of the following trees/shrubs shall be directly supervised by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

| Species/From   | To  |
|--|---|
| #29 <i>Phoenix canariensis</i> (Canary Island Date Palm) | Centrally located on site within Turramurra Ave site frontage |

53. 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.
54. 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.
55. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
56. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The (minimum) total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy all relevant BASIX commitments and the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).
57. In addition to the mandatory rainwater retention and re-use system provided, an on-site stormwater detention system must be provided for the development to

- control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
58. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanized grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.
59. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.
60. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.
61. It is the Applicants and contractors **full responsibility** to ascertain the exact location of the Council drainage pipe traversing the site and take measures to protect it. All proposed structures are to be sited fully clear of any Council drainage pipes, drainage easements, watercourses and trunk overland flow paths on the site. Trunk or dedicated flow paths shall not be impeded or diverted by fill or structures unless otherwise approved. In the event of a pipeline being uncovered during construction, all work is to cease and the Principal Certifying Authority and Council must be contacted immediately for advice. Any damage caused to the Council pipe shall be immediately repaired in full and at no cost to Council.
62. No part of the building (including overhangs and footings) shall encroach over any easement and no loadings shall be imposed to the utilities within any easement.
63. To ensure structural stability, footings to be located adjacent to easements and/or Council drainage pipes shall be sited and constructed so that all footings are located outside of easement boundaries. The applicant shall refer to Council Plan 80-011 concerning such works. Footings must extend to at least the depth of the

- invert of the adjacent pipe within the easement unless the footings are to be placed on competent bedrock. If permanent excavation is proposed beneath the obvert of the pipe within the easement, suitable means to protect the excavation from seepage or other water flow from the pipe and trench, and means to retain the easement and associated pipe cover, are to be provided by the applicant at no cost to Council. Council accepts no liability for such seepage or water flows now or at any time in the future resulting from such excavation.
64. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
65. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
66. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
67. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
68. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

69. In order to allow **unrestricted access at all times** for Ku-ring-gai Council waste collection vehicles into the basement garbage collection area - no doors, grilles, gates or other devices are to be provided in the access driveways to the basement car-park preventing this service.
70. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure. Geotechnical aspects of the development work, namely:
- Appropriate excavation methods and techniques,
  - Vibration management and monitoring,
  - Support and retention of excavated faces,
  - Hydrogeological considerations,

Must be undertaken in accordance with the recommendations of the Geotechnical Investigation Report prepared by Jeffery and Katauskas and all subsequent geotechnical inspections carried out during the excavation and construction phase. Over the course of the works a qualified Geotechnical/hydrogeological Engineer must complete the following:

- Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
- Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,

Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.

Approval must be obtained from all affected property owners, including Ku-ring-gai Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

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

71. In order to preserve the privacy of adjoining properties, the following amendment is necessary:
- a) The glass balustrades for all of the balconies on the eastern elevation of Block A and eastern and southern elevations of Block B must incorporate opaque glazing panels.

Details of the above privacy measures are to be submitted with the application for a Construction Certificate.

72. To ensure compliance with Council's Manageable Housing requirements a minimum 5 apartments are to be provided as manageable housing

73. All overhead electricity and other lines (existing and proposed) shall be undergrounded from the proposed buildings on the site to the appropriate power pole(s) or other connection points, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate (*Reason: To provide infrastructure that facilitates future improvement of the streetscape by relocation of overhead lines below ground*).
74. Five (5) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and level door handles and taps: such features to be designed generally in accordance with AS 1428.1 and AS 4299-1995 – Adaptable Housing. Details demonstrating compliance are to be submitted with the Construction Certificate (*Reason: to ensure equity of access and availability of accommodation in the future for an ageing population*).
75. Thirty five (35) of the proposed apartments are to be ‘*visitable housing units*’ in accordance with the requirements of AS 4299. These apartments are to be visitable by people who use wheelchairs. There must be at least one wheelchair accessible entry and path of travel to the living area and to a toilet that is either accessible (meeting the floor space requirements described in AS1428.1) or visitable toilet (minimum space of 1250mm in front of the toilet that is either accessible or visitable. Details demonstrating compliance are to be submitted with the Construction Certificate (*Reason: to ensure equity of access and availability for disabled persons*).
76. Prior to the commencement of any works on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring structures at

- 2 Nulla Nulla Street and 3 Wonga Wonga Street

The report must be completed by a consulting structural/geotechnical engineer. Upon submitting a copy of the dilapidation report to Council (or certification that no report is required), a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

77. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.

Note: Required if cost of works exceed \$25,000.00.

78. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity

Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

79. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
80. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
  - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
  - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
  - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
  - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

81. Prior to the issue of a Construction Certificate, the compliance certificate obtained under Section 73 of the Water Board (Corporatisation) Act, must be submitted for verification by the Principal Certifying Authority (PCA).
82. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a plan detailing the required trenches for services. The plan shall show distances from proposed and existing trees. All new public utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
83. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF 49 ADDITIONAL DWELLINGS IS CURRENTLY \$948,246.20. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

|   |            |
|---|------------|
| 1. Community Facilities<br>(If Seniors Living \$412.07) | \$1,117.76 |
| 2. Park Acquisition and Embellishment Works             |            |
| - Turramurra/Warrawee                                   | \$4,723.00 |
| - Wahroonga   | \$6,574.28 |
| 3. Sportsgrounds Works                                  | \$1,318.32 |
| 4. Aquatic / Leisure Centres                            | \$27.82    |
| 5. Traffic and Transport                                | \$150.28   |
| 6. Section 94 Plan Administration                       | \$100.04   |

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

#### OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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



84. Fire Safety Schedule for the development shall be submitted to the Principal Certifying Authority and approved prior to the issue of a Construction Certificate.
85. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

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

86. Paving works within the specified radius of the trunk/s of the following tree/s shall be of type and construction to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be prepared by a suitably qualified professional and submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate:

| Tree/Location   | Radius From Trunk |
|---|-------------------|
| #8 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to northern site boundary  | 15.0m             |
| #11 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 10.0m             |
| #13 <i>Acer buergeranum</i> (Trident Maple)<br>Adjacent to western site boundary  | 4.0m              |
| #14 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 12.0m             |
| #15 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary  | 8.0m              |
| #32 <i>Brachychiton acerifolius</i> (Illawarra Flame Tree)<br>Adjacent to southern site boundary in neighbouring property | 5.0m              |

87. An amended plan of the proposed landscape works consistent with the landscape plan 5064-01 Issue E prepared by Peter glass and Associates dated 03/07/2006, subject to the amendments as specified shall be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. The landscape works shall be carried out and installed in accordance with the approved landscape plan/s.

The following amendments to the plan shall apply:

Existing levels and grades are to be maintained beneath the canopy drip lines of all trees to be retained on site and adjoining properties. Particular attention is drawn to Tree #'s 8, 11, 14, 15 and 22 where level changes are proposed.

Three tall native endemic tree species, capable of attaining a minimum height of 13.0m are to be planted within the southern side setback. The trees to be planted are to have a minimum spacing of 10.0m apart.

An additional three native endemic tall trees capable of attaining a minimum height of 13.0m are to be planted with a minimum spacing of 10.0m apart adjacent to the eastern site boundary.

Three small tree species able to attain a minimum height of 6.0m are to be planted adjacent to the southern site boundary/south east site corner to maintain and enhance privacy to the adjoining heritage property.

The proposed planting of two *Nyssa sylvatica* (Tupelo) adjacent to the northern site boundary are to be relocated so that they have a minimum spacing of 8.0m from each other to allow for future growth.

All plantings of *Cyathea cooperi* (Soft tree fern) are to be deleted and replaced with a non weed species.

The proposed planting of two *Angophora costata* (Sydney redgum) and one *Nyssa sylvatica* (Tupelo) adjacent to the south-western site corner are to be relocated so that they do not conflict with the location of the proposed sub station, have a minimum 5.0m setback from the sub station, and have a minimum spacing of 8.0m from each other to allow for future growth.

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

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

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

89. A CASH BOND/BANK GUARANTEE of \$20 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the

following trees are maintained in the same condition as found prior to commencement site development work.

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

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

| Tree/Location   | Bond Value |
|---|------------|
| #8 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to northern site boundary            | \$4,000.00 |
| #11 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary            | \$4,000.00 |
| #14 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary            | \$4,000.00 |
| #15 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary            | \$3,000.00 |
| #22 <i>Metasequoia glyptostroboides</i> (Dawn Redwood)<br>Adjacent to eastern site boundary | \$1,000.00 |
| #41 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Wonga Wonga St nature strip                  | \$4,000.00 |

90. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
91. Prior to issue of the Construction Certificate, driveway and associated footpath levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the

position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

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

92. Prior to issue of the Construction Certificate the Applicant must submit, for approval by the Principal Certifying Authority, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements clearly dimensioned. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:
- a) All parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply in full with Australian Standard 2890.1 – 2004 “Off-street car parking”.
  - b) Mirrors and signage are shown as recommended in the report by Masson Wilson Twiney dated 25 January 2006,
  - c) A clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement.
  - d) No doors or gates are provided in the access driveways to the basement 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 in accordance with the certified plans.

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

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

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

95. Prior to issue of the Construction Certificate the Applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

96. Prior to issue of the Construction Certificate the applicant must make contact with all relevant utility providers whose services will be impacted upon by the approved development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifying Authority, must be obtained. All utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage must be provided by the developer in accordance with the specifications of those supply authorities.
97. The Applicant must carry out the following infrastructure works in the Public Road:
- a. construct a footpath for the Wonga Wonga Street frontage of the site.

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

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

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

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

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

NOTE 3: Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this

condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

98. A report is to be submitted to and approved by Council's Heritage Advisor prior to commencement of the work and prior to issue of a Construction Certificate.

The report is to be prepared by a heritage consultant included in the NSW Heritage Office list of recognised consultants or other suitably qualified persons who have knowledge and experience in preparing archival recording documents.

The report is to be a bound A4 report and must include copies of drawings submitted with the application including site surveys and specialist reports such as heritage assessments, dilapidation report, and builders or engineers reports. Three copies of the report must be submitted, one copy with negatives. Any archival documents such as family records, old photographs should also be included.

All photographs to be to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. A photographic recording sheet must be included. Photographs of the following:

- Each elevation
- Selected interiors
- All structures on site such as sheds, outhouses and landscape features
- Several photographs of house from public streets or laneways including several views showing relationship to neighbouring buildings.

Minimum requirements:

- Title page
- Statement of reasons the recording was made
- Location Plan showing relationship of site to nearby area
- Site plan to scale (1:200 – 1:500) showing all structures and site elements
- Floor Plan (1:100) showing position of camera
- Black & White archival quality photographs, contact prints and selected prints (one copy with negatives other copies with contact sheets and selected prints)

Digital images and CDs may be submitted as supplementary information.

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

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

100. The following are required details and must be submitted to the Principal Certifying Authority *prior to the works relating to the detail being carried out*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

a. A Registered Surveyor's set out report.

- 100A. To maintain access in Wonga Wonga Street, the applicant is to install "No Parking" signs along one side of the street which would be effective for the approved hours of construction. The signs are to be considered by the Ku-ring-gai Traffic Committee and approved by Council (subject to resident concurrence), and installed prior to the commencement of any work on the site. The applicant shall pay for the consideration of the matter by the Ku-ring-gai Traffic Committee, as well as for the installation, maintenance, and removal of the signs following completion of the work and the occupation certificate being issued. If construction activities overlap with another medium density development nearby, the maintenance and subsequent removal of the signs would be carried over to the other developer.
101. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

| Tree/Location   | Radius in Metres |
|---|------------------|
| #8 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to northern site boundary            | 8 .0m            |
| #11 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary            | 7.0m             |
| #13 <i>Acer buergeranum</i> (Trident Maple)<br>Adjacent to western site boundary            | 4.0m             |
| #14 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary            | 8.0m             |
| #15 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Adjacent to western site boundary            | 4.0m             |
| #22 <i>Metasequoia glyptostroboides</i> (Dawn Redwood)<br>Adjacent to eastern site boundary | 4.0m             |
| #24 <i>Fraxinus oxycarpa</i> 'Raywoodii' (Claret Ash)<br>Adjacent to eastern site boundary  | 5.0m             |



|   |                                      |
|---|--------------------------------------|
| #25 <i>Chamaecyparis obtusa</i> (Hinoki Cypress)<br>Adjacent to eastern site boundary                                     | 5.0m                                 |
| #27 <i>Acer palmatum</i> (Japanese Maple)<br>Adjacent to eastern site boundary  | 5.0m                                 |
| #31 <i>Corymbia citriodora</i> (Lemon scented gum)<br>Adjacent to eastern site boundary in neighbouring property          | 6.0m                                 |
| #32 <i>Brachychiton acerifolius</i> (Illawarra Flame Tree)<br>Adjacent to southern site boundary in neighbouring property | 5.0m                                 |
| #41 <i>Eucalyptus pilularis</i> (Blackbutt)<br>Wonga Wonga St nature strip  | 4.0m to northwest<br>10.0m elsewhere |

102. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
103. Prior to works commencing tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign shall advise in a clearly legible form, the following minimum information:
  1. Tree Protection Zone
  2. This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.
  3. If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works.
  4. Name, address, and telephone number of the developer/principal certifying authority.
104. Prior to works commencing the area of the Tree Protection Zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood. The depth of mulch and type as indicated, to be maintained for the duration of the project & Principal Certifying Authority.
105. To preserve the following tree/s, no work shall commence until temporary measures to avoid soil compaction (eg rumble boards) beneath the canopy of the following tree/s is/are installed:

Tree/Location

#8 *Eucalyptus pilularis* (Blackbutt)  
Adjacent to northern site boundary

#11 *Eucalyptus pilularis* (Blackbutt)

Adjacent to western site boundary

#14 *Eucalyptus pilularis* (Blackbutt)

Adjacent to western site boundary

#15 *Eucalyptus pilularis* (Blackbutt)

Adjacent to western site boundary

#41 *Eucalyptus pilularis* (Blackbutt)

Wonga Wonga St nature strip

106. Upon completion of the installation of the required tree protection measures you are required to arrange for an inspection of the site by the Principal Certifying Authority to verify that tree protection measures comply with all relevant conditions. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence
107. Prior to the commencement of any works on site and prior to issue of the Construction Certificate, qualified practitioners must undertake a closed circuit television (CCTV) inspection and then report on the existing condition of Council drainage pipeline traversing the subject property. The report must be provided to Council, attention Development Engineer, prior to issue of the Construction Certificate. The report is to include a copy of the video footage of the pipeline.
108. Prior to the commencement of **any excavation works** on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of structures at 2 Nulla Nulla Street and 3 Wonga Wonga Street (including the tennis court). The report must be completed by a consulting structural/geotechnical engineer. Upon submitting a copy of the dilapidation report to Council (or certification that no report is required), a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.
109. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:
  1. **A plan view of the entire site and frontage roadways indicating:**
    - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
    - Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,

- The locations of proposed Work Zones in the frontage roadways,
- Location of any proposed crane standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible

## **2. Traffic Control Plan(s) for the site**

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication “Traffic Control Worksite Manual” and be designed by a person licensed to do so (minimum RTA ‘red card’ qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- Pedestrian access along the site frontage during footpath closure is to be provided by water-filled barriers.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

## **3. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided. During the course of the works, the route is to be signposted. Routes for construction vehicles travelling north are to be indicated.**

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

In addition, the plan must address:

- Evidence of RTA concurrence where construction access is provided directly or within 20m of an Arterial Rd.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible and if not possible, an estimate of the number of on- street parking spaces necessary and an alternative legal on-street location for employee parking.

The *Construction and Traffic Management Plan* shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation. As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. A fee is payable for the assessment of the plan by Ku-ring-gai Council.

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

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

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

- 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.

### **CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION**

113. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the EP & A Act regulations.

114. To ensure compliance with the consent, a final report from a Registered Surveyor shall be submitted to Council confirming floor/ ceiling levels and boundary setbacks prior to occupation.

115. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
116. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Inspections by and documentation from the Arborist to the Principal Certifying Authority is required as specified. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.
117. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.
118. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.
119. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:
- New concrete driveway crossing 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.

120. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88 E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the

satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

121. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.
122. Prior to issue of the Occupation Certificate the following must be provided to Council (attention Development Engineer):
- a) A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
  - b) A copy of any works-as-executed drawings required under this consent
  - c) The Engineer's certification of the as-built system.

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

123. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.
124. Prior to issue of an Occupation Certificate the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed car park complies with the approved Construction Certificate plans,
  - b) That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 “Off-Street car parking” in terms of minimum parking space dimensions provided,
  - c) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
  - d) That no doors, gates, grilles or other structures have been provided in the access driveways to the basement car park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.
  - e) That mirrors and signage have been provided in accordance with the recommendations of the Masson Wilson Twiney report dated 25 January 2006.
  - f) That the vehicular headroom requirements of:
    - Australian Standard 2890.1 - “Off-street car parking”, and
    - 2.44m height clearance for waste collection trucks (refer DCP 40)are met from the public street into and within the applicable areas of the basement car park.
125. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:
- a) That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
  - b) That the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.
  - c) That retained water is connected and available for uses including the BASIX commitments (toilet flushing, irrigation and car washing).
  - d) That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
  - e) That all grates potentially accessible by children are secured.
  - f) That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and
  - g) All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The following certification sheets **must be accurately completed and attached** to the certification:



- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47
- On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.

126. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:

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

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

127. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit for approval by the Principal Certifying Authority (PCA) certification from a suitably qualified and experienced civil engineer, that:

- a. Footings, and any required permanent excavation or drainage easement support, have been constructed in accordance with the conditions of this Consent relating to footings and excavation adjacent to drainage easements and/or drainage pipes, and
- b. Footings allow for complete future excavation over the full width of the easement to a depth of the invert of the pipe, without the need to support or underpin the subject structure.

A copy of the certificate must also be provided to Council, attention Development Engineer, prior to issue of any Final Certificate.

128. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall to the Principal Certifying Authority (PCA) certification from a registered surveyor that no structures are located over the existing drainage pipeline and/or easement traversing the subject property. A copy of the certification must also be provided to Council, attention Development Engineer, prior to issue of any Final Certificate.
129. Prior to issue of the Occupation Certificate a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.
130. Prior to issue of the Occupation Certificate a suitably qualified and consulting geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out:
- a) According the relevant Australian Standards and guidelines, and
  - b) According to any approved Geotechnical report undertaken for the development, and
  - c) In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.
131. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the Report on Geotechnical Investigation by Jeffery and Katauskas Consulting Engineers and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
132. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, an easement for waste collection must be provided. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.
133. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), a closed circuit television (CCTV) inspection and report on the Council drainage pipeline traversing the subject property is to be undertaken by appropriate contractors and provided to Council, attention Development Engineer. The report is to include a copy of the footage of the inside of the pipeline. Any damage that has

occurred to the section of the pipeline since the commencement of construction on the site must be repaired in full to the satisfaction of Council's Development Engineer at no cost to Council.

134. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structures originally assessed at:

- a) 2 Nulla Nulla Street and 3 Wonga Wonga Street
- b) Turramurra Avenue and Wonga Wonga Street including the intersection and driveway opposite the site.

The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

**CARRIED UNANIMOUSLY**

328

**66 Roseville Avenue, Roseville - First Floor Addition & Alterations to Ground Floor**

File: DA0426/06

Ward: Roseville

Applicant: Lindsay Little & Associates Pty Ltd

Owner: Mr & Mrs Waggett

**The following members of the public addressed Council:**

**H Little**

**C Waggett**

To determine development application No.426/06, which seeks consent for a first floor addition and alterations to ground floor of an existing dwelling house.

**Resolved:**

(Moved: Councillors Shelley/Anderson)

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

THAT the Council, as the consent authority, grant development consent to DA 426/06 for alterations and additions on land at No. 66 Roseville Avenue, Roseville for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

## GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 426/06 and Development Application plans prepared by Lindsay Little & Associates Pty Ltd, reference number 2998/06, sheets 1 of 2 and 2 of 2, dated 20 March 2006 and lodged with Council on 10 May 2006.
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
5. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
6. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.
7. Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.
8. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
9. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.

10. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
11. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
12. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
13. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
14. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 *“Traffic Control Devices for Work on Roads”*. **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
15. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
16. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
17. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.

18. The applicant shall ensure that at all times during the site works no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
19. 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.
20. The following noxious and/or environmental weed species shall be removed from the property prior to completion of the proposed building works:  
Plant Species  
*Acetosa sagittata* (Turkey Rhubarb)  
*Asparagus densiflorus* (Asparagus Fern)  
*Cinnamomum camphora* (Camphor laurel)  
*Nephrolepis cordifolia* (Fishbone fern)  
*Ochna serrulata* (Ochna)  
*Solanum mauritianum* (Wild Tobacco)

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

21. To ensure privacy to No.64 Roseville Avenue, the proposed dormer window along the south-western elevation shall be of obscure glazing. Details shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
22. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.  
Note: Required if cost of works exceed \$25,000.00.
23. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
24. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any

earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.

25. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
  - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
  - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
  - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

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

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

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF THE FINAL COMPLIANCE CERTIFICATE

27. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.

**CARRIED UNANIMOUSLY**

329 **Companion Animals Advisory Committee – Minutes of 9 August 2006**

.  
File: S03449

To submit Minutes of the Companion Animals Advisory Committee held on 9 August 2006 for the information of Council.

**Resolved:**

(Moved: Councillors Hall/Cross)

- A. That the minutes of the Companion Animals Advisory Committee meeting held on 9 August 2006 be received and noted.
- B. That it be noted that the Committee will be meeting on an annual basis unless needed otherwise.

**CARRIED UNANIMOUSLY**

330 **Ku-ring-gai Youth Development Service - Cleaning of Premises**

.  
File: P55058

To advise Council of a request from Ku-ring-gai Youth Development Services Inc (KYDS) for Council to fund the cleaning of the KYDS premises at the rear of the Lindfield Library.

**Resolved:**

(Moved: Councillors Shelley/Anderson)

That Council approve funding of \$1,284.40 per annum for the cleaning of the Ku-ring-gai Youth Development Services premises located at the rear of the Lindfield library to be reviewed at the time of the lease renewal and, that this amount be added to the 2006 to 2007 library budget for cleaning contractors.

**CARRIED UNANIMOUSLY**

**Councillors Shelley & Bennett withdrew**



331 **Sportsground Management in New South Wales**

File: S02993

For Council to consider a draft submission to the NSW Standing Committee on Public Works regarding their inquiry into Sportsground Management in New South Wales.

**Resolved:**

(Moved: Councillors Ebbeck/Lane)

- A. That the draft submission attached to this report be formally submitted as Council's submission to the Standing Committee on Public Works regarding their Inquiry into Sportsground Management in New South Wales.
- B. That information regarding Council's submission is distributed to the Ku-ring-gai Sporting Community.
- C. That Council expresses its interest to the NSW Standing Committee on Public Works in being part of any future working party or forum that is established as a result of this enquiry.

**CARRIED UNANIMOUSLY**

**Councillors Shelley & Bennett returned**

332 **Application for Rezoning - 1228 to 1274 Pacific Highway, Pymble/  
Turramurra & 1 Beechworth Road, Pymble**

File: S04082

To consider an application for the rezoning of residential lands at 1228-1274 Pacific Highway, Pymble / Turramurra and 1 Beechworth Road, Pymble to 2(d3) to permit multi-unit development.

**Resolved:**

(Moved: Councillors Ebbeck/Cross)

- A. That Council defer the application for re-zoning to a briefing for consideration and further reporting to Council;
- B. That a site inspection for Councillors (if necessary) and relevant staff be undertaken following the briefing session.

*For the Resolution:           The Mayor, Councillor E Malicki, Councillors  
Andrew, Bennett, Cross, Ebbeck, Hall, Lane*

*Against the Resolution:   Councillors Ryan, Shelley and Anderson*

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

*(Moved: Councillors Ryan/Shelley)*

*That Council defer the application for re-zoning to a briefing for consideration and further reporting to Council.*

333 **Community Consultation on Entry Signs**

File: S02425

To report on the outcome of the public exhibition of the proposed entry sign designs.

**Resolved:**

(Moved: Councillors Ryan/Shelley)

That Council notes the comments from the community on the entry sign and selects Option B for the installation of the entry signs.

*For the Resolution: Councillors Andrew, Cross, Ebbeck, Lane, Ryan & Shelley*

*Against the Resolution: The Mayor, Councillor E Malicki, Councillors Bennett, Hall & Anderson*

**MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**

334 **Establishment of new Facilities Committee**

File: S05043

**Notice of Rescission from Councillor N Ebbeck, Councillor A Ryan & Councillor M Lane dated 9 August 2006.**

We, the undersigned Councillors, wish to rescind the following motion that was resolved by Council at its meeting of 18 July 2006:

We move that:

- “1. Council establishes a new Facilities Committee consisting of a core group of 4 Councillors, noting that all interested Councillors and senior staff are invited*

*to attend, and all attendees will have equal participative rights at the Committee.”*

If the above Rescission Motion is successful, the following motion is proposed:

*“Council establishes a new Facilities Committee consisting of one (1) Councillor from each Ward, noting that all interested Councillors and senior staff are invited to attend and that the committee will operate in accordance with the adopted charter.”*

**Resolved:**

(Moved: Councillors Ryan/Ebbeck)

That the above Notice of Rescission as printed be adopted.

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

*Against the Resolution:    Councillor Shelley*

**GENERAL BUSINESS (cont)**

335

**Council Facilities Committee Charter**

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File: S05043

To seek Council's endorsement of the draft charter for the new Council Facilities Committee.

**Resolved:**

(Moved: Councillors Ebbeck/Lane)

- A. That the Charter for the new Council Facilities Committee, as amended, be adopted.

**Councillors Bennett & Shelley withdrew**

(Moved: Councillors Ryan/Andrew)

- B. That the membership of the Council Facilities Committee be:

The Mayor, Councillor E Malicki (Deputy Chairperson)  
Councillor J Anderson  
Councillor N Ebbeck  
Councillor T Hall  
Councillor M Lane

**CARRIED UNANIMOUSLY**

**At 11.50pm a Motion moved by Councillors Ebbeck & Andrew  
to extend the meeting until all business completed  
was CARRIED UNANIMOUSLY**

**Councillors Shelley & Barnett returned**

336 **LGA Conference 2006 - Submission of Motions**

File: S04415

To seek any Motions from Councillors to be placed before the Local Government Association Conference 2006.

**Resolved:**

(Moved: Councillors Ebbeck/Lane)

- A. That Councillors submit proposed Motions for the forthcoming LGa Conference to the General Manager and all Councillors by Thursday, 24 August 2006.
- B. That the General Manager forward Motions to the LGA on Friday, 25 August 2006 in the event that Councillors raise no opposition to proposed Motions received.

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

*Against the Resolution:    Councillor Shelley*

**QUESTIONS WITHOUT NOTICE**

337 **Reclassification of Council Car Parks in Stage 2**

File: S04151

Question Without Notice from Councillor T Hall

I ask the General Manager whether there is any Ministerial direction to oblige the Council to reclassify Community Lands designated as car parks in the Town Centre program to Operational please?

If not, would the General Manager seek a ruling from the Department of Planning that Council-owned car parks must be classified Operational in Stage 2?

**Answer by the General Manager**

I will answer it in two parts:

1. I am not aware of any Ministerial directive to classify.
2. I would be very uncomfortable about going to the Department & doing that on the back of a Notice of Motion without the view of the majority of Councillors to do that.

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

The Director Open Space & Planning was asked to set the time & date of the site inspection of the following properties & advise the Councillors of such:

Regimental Park, Killara & 76A Highfield Road, Lindfield for re-location of Killara Croquet Club

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

338

**Purchase of 102 Rosedale Road for Conservation**

*(Section 10A(2)(c) - Information that would confer a commercial advantage)*

File: P57397

Mayoral Minute dated 14 August 2006.

**Resolved:**

(Moved: Councillor Malicki as Mayoral Minute)

That Council proceed in the terms discussed.

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

*Against the Resolution:      Councillor Ryan*

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

*(Moved: Councillors Hall/Ebbeck)*

*That the matter be deferred for further information.*

*To Open Council*

The Mayor adverted to the consideration of the matter referred to in Minute numbered 338, and to the resolution contained in such Minute.

*The Meeting closed at 12.35am*

The Minutes of the Ordinary Meeting of Council held on 22 August 2006 (Pages 1 - 70) were confirmed as a full and accurate record of proceedings on 12 September 2006.

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General Manager

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Mayor / Chairperson

## **ATTACHMENT A**

**(refer Minute No 305)**



NSW GOVERNMENT  
Department of Planning

(17 pages)

S02921

Contact: Maynessa Lloyd  
Phone: (02) 9228 6116  
Fax: (02) 9228 6154  
Email: [maynessa.lloyd@planning.nsw.gov.au](mailto:maynessa.lloyd@planning.nsw.gov.au)

Cr. Tony Hall  
60 Woodberry Road  
ST IVES NSW 2075

Our ref: FOI 2005/06:101  
File: 9043486-1

Dear Cr. Hall

I refer to your request, under the Freedom of Information Act 1989 (FOI Act), to obtain copies of correspondence and minutes of a ministerial meeting 20 August 2001 between Dr Refshauge and Ku-ring-gai Council.

You will find enclosed a copy of the documents to which access was granted on 24 July 2006 and a receipt for the processing charge.

If you have any questions relating to this application please contact me on (02) 9228 6116.

Yours sincerely

Maynessa JR Lloyd  
Manager FOI and Privacy

8 August 2006



# TAX INVOICE



Department of Planning

23-33 Bridge Street Sydney NSW 2000  
GPO Box 39 Sydney NSW 2001

Conservation

10348

TAX INVOICE  
ABN 38 755 709 681

20

Received by CHEQUE the sum of (in words) \_\_\_\_\_  
\*State whether cheque, postal money order, cash, etc..

TWO HUNDRED + FIFTY-FIVE DOLLARS

FROM:

CR. T. HALL

ADDRESS:

| QTY | DESCRIPTION OF SUPPLY    | AMOUNT         |
|-----|--------------------------|----------------|
|     | <u>PROCESSING CHARGE</u> | <u>\$255 -</u> |
|     | <u>FOI 2003/06 : 101</u> |                |
|     |                          |                |
|     |                          |                |
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|     |                          |                |

TOTAL AMOUNT PAID \$ 255 -

TOTAL AMOUNT PAID INCLUDES GST OF \$ N/A

Indicates Taxable supply

MJR  
ACCOUNTS OFFICER

If payment has been made by cheque receipt is subject to the cheque being duly cleared



NSW GOVERNMENT  
**Department of Planning**

Contact: Maynessa Lloyd  
Phone: (02) 9228 6116  
Fax: (02) 9228 6154  
Email: [maynessa.lloyd@planning.nsw.gov.au](mailto:maynessa.lloyd@planning.nsw.gov.au)

Cr. Tony Hall  
60 Woodberry Road  
ST IVES NSW 2075

Our ref: FOI 2005/06:101  
File: 9043486-1

Dear Cr. Hall

Thank you for your e-mail, dated 6 August 2006, received 7 August 2006.

When processing your application, a thorough search was conducted of the Department's computerised record keeping system and relevant branches where records may have been held. Inquiries were also made with the Department's Ministerial Correspondence Unit, which handles both correspondence to the Minister and the Director General of the Department.

Under the FOI legislation, section 16 provides for access to be given to documents held by a specific government agency with which an application has been lodged. Any requests for access to documents held by a Minister's office should be lodged with the relevant Minister's office under the provision of section 35 of the Act.

Concerning your request for a reduction in fees and charges, it is unlikely that your application would be considered to be within the public interest. As your request has been made after the Department's determination has been made, should you wish to pursue this request, it will be necessary for you to request an internal review of the charge for dealing with your application. I have enclosed an additional copy of the procedures for requesting such a review for your assistance.

If you have any questions concerning your application or this letter, please contact me on (02) 9228 6116.

Yours sincerely

Maynessa JR Lloyd  
Manager FOI and Privacy

9 August 2006





**DEPUTY PREMIER  
MINISTER FOR URBAN AFFAIRS AND PLANNING  
MINISTER FOR ABORIGINAL AFFAIRS  
MINISTER FOR HOUSING**

4th EX  
→ Kestula James  
cc. Peter Hamilton  
**COPY**

GPO Box 3451  
SYDNEY NSW 1043

Telephone: (02) 9228 4499  
Facsimile: (02) 9228 4400

YOUR REF:

OUR REF:

Clr Ted Roach  
Deputy Mayor  
Ku-ring-gai Council  
PO Box 697  
WAHROONGA 2076

Fax: 9487 5408

**FAXED**

4 SEP 2001

DEPARTMENT OF URBAN  
AFFAIRS AND PLANNING  
RECEIVED

- 7 SEP 2001

Dear Clr Roach

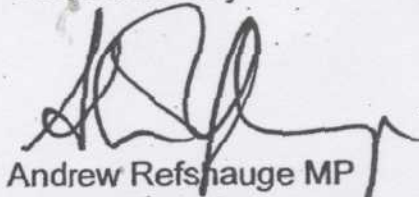
I refer to your recent facsimile regarding Council's Residential Development Strategy.

As discussed at my recent meeting with Ku-ring-gai Council, I expect Council to prepare a Strategy which is based on housing demand and which logically and objectively identifies areas for residential development.

Concerns have been raised with me that Council amended its Strategy to protect members of the Ku-ring-gai Preservation Trust from redevelopment in areas surrounding their properties. While I have no way of knowing whether or not this is true, Council may wish to revisit these areas in reviewing its Strategy.

I look forward to Council working productively with the Department of Urban Affairs and Planning to come up with a responsible Residential Development Strategy and appropriate planning controls.

Yours sincerely



Andrew Refshauge MP  
Deputy Premier  
Minister for Urban Affairs and Planning  
Minister for Aboriginal Affairs  
Minister for Housing

For File

Reis

009

**CLRTED ROACH****DEPUTY MAYOR  
KU-RING-GAI COUNCIL**:076  
18,  
Fax: (02) 9497 5408

# Facsimile



To: The Hon Dr Andrew Refshauge  
Deputy Premier  
Minister for Urban Affairs &  
Planning  
@Fax: 9228 4400  
From: Councillor Ted Roach  
Date: 24 August 2001  
Re: Meeting 21/8/01  
Pages: 1, including this

The Hon Andrew Refshauge  
Deputy Premier  
Minister for Urban Affairs & Planning

Dear Sir,

**RE: KU-RING-GAI COUNCIL'S RESIDENTIAL HOUSING STRATEGY**

I refer to the meeting held at your offices on the 21st August 2001 with yourself, senior members of your Department, the Member for Ku-ring-gai, Ku-ring-gai Council's Mayor, Deputy Mayor, General Manager and staff.

The Minister highlighted at the meeting he had received a map which showed that the homes and the areas in the vicinity of senior members of the Ku-ring-gai Preservation Trust were no longer affected by the RDS. It was my understanding that the Minister required such areas to be revisited and corrected prior to Council resubmitting the strategy for approval.

I would appreciate the Minister's recollection or intentions being clarified on this matter.

Yours faithfully,

A handwritten signature in cursive script that reads "T. Roach".

Councillor Ted Roach  
Deputy Mayor



## Department of Urban Affairs and Planning

### Ministerial Briefing Note

File No: S95/01707 Pt 7

**Subject:** Meeting with Barry O'Farrell MP and Ku-ring-gai Council to discuss Minister's recent rejection of its proposed Residential Strategy

### Introduction

- The Minister has agreed to a request by Mr Barry O'Farrell MP to meet with Ku-ring-gai Council and himself to discuss the Minister's recent decision to reject Council's proposed Residential Development Strategy.

### Background

- On 3<sup>rd</sup> July 2001, the Minister advised Ku-ring-gai Municipal Council that he would not grant it exemption from either State Environmental Planning Policy No.53 – Metropolitan Residential Development or State Environmental Planning Policy No.5 – Housing for Older People or People with a Disability. He did, however, express general support for the Strategy's baseline investigation studies.
- The Minister indicated that as soon as an acceptable LEP and DCP (including heritage controls) are put in place for the railway/highway corridor and St Ives, which represents the Strategy's Stage 1 area, he would be prepared to exempt this area. Council was asked to include the views of the development industry when preparing these plans and was notified that the timetable would be agreed in liaison with the Department.
- The Minister advised that, in the interim, he will consider direct requests for him to rezone land for multi-unit housing. Rezoning would be done using Ministerial power reserved under Part 4 of SEPP 53.
- With regard to the area outside Stage 1 (ie. Stage 2), Council was asked to immediately undertake a strategic review of controls. In relation to SEPP 5, the Minister advised he could only grant exemption once Council had appropriate controls in place, pending finalisation of SEPP 5 exemption criteria by the Department for all councils.

### Council's response

- Council has responded to the Minister's decision by Mayoral letter dated 1 August 2001, which is expected to form the basis for the subject meeting with the Minister.

### Issues

- Whilst accepting the Minister's decision in its letter, Council has queried the basis of the decision and is seeking a detailed explanation. It also seeks clarification of the work the Minister has requested it do, and access to internal documents relating to the Strategy's assessment. Council wants this prior to liaising with the Department.
- The issues and matters raised by Council are detailed and addressed in the attachment to this note. It is considered that no issue is justified.

### Meeting

- The Minister's meeting has been set for 4.30pm, Monday 20<sup>th</sup> August 2001. The Department's representatives will be Mr Gary Prattley (9391-2004) and Ms Petula Samios (9391-9361).

### Recommendation

- It is recommended that the Minister note the issues and matters in the attachment, address these at the meeting and reaffirm his decision to reject Council's proposed Residential Development Strategy.

Petula Samios  
Director  
Sydney Region East

20 August 2001

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## **- ATTACHMENT -**

### **ISSUES RAISED IN COUNCIL'S RESPONSE**

#### **1. REQUEST FOR ACCESS TO ALL ASSESSMENT PAPERS**

**Reason for request** - Council believes it must understand the basis of the Residential Strategies Advisory Committee's conclusions so that it can know how to proceed with the work which the Minister has required it to undertake in order to now gain exemption from SEPP 53.

**Minister's position** - Access to internal documents other than those already provided to Council is unwarranted. Due process was followed throughout the Strategy's assessment to make Council aware of the issues of concern. Council was given access to consultant assessment reports, informed of the Committee's and Department's views, and provided with the opportunity to appear directly before the Committee. On each occasion that its Strategy was rejected since 1997, Council had been made aware of the reasons why it was unacceptable. The information which the Department will be providing to Council when meeting with it to discuss the work it is to undertake will be of sufficient guidance.

#### **2. DECISION INCONSISTENT WITH PREVIOUS GUIDANCE**

**Issue** - Council believes that the Minister's decision is inconsistent with previous indications given to it that it was satisfactorily proceeding with its Strategy. Council argues that it was not aware of any specific targets, or requirements for housing type and density, and was advised that it could tailor its Strategy.

**Minister's position** - The rejection of the Strategy does not conflict with previous advice to Council that there were no set targets, housing types or density requirements. The Strategy contains no proper investigation of housing demand. *This requirement is fundamental. The community consultation undertaken by Council does not qualify as a substitute for this, nor can it be allowed to be viewed as overriding the importance of housing need. A cursory analysis of local population trends gives evidence to the significant shortfall in the Strategy's proposals. This is supported by submissions to the Minister from local residents.*

The Strategy proposes to yield housing which will accommodate around 7000 additional persons. Given the concerns with the Strategy's viability, this figure is realistically considered to be only 3000-5000 in the best case scenario where the



development opportunities proposed are fully exploited. Council's own base study investigations have identified the scope to accommodate 10,000-12,000 additional people without the need for significant improvements in infrastructure.

### 3. CLARIFICATION OF SPECIFIC ISSUES

#### a. Limited opportunities for the provision of additional housing choice

**Issue raised** - Council contends that each of the Stage 1 centres provides for the full range of housing types identified under the Strategy (with the exception of St. Ives, which excludes 3 storey apartments). It has questioned why the Strategy has been criticised for providing only very limited opportunities for the provision of additional housing choice.

**Minister's position** - The types and densities of housing to be permitted are severely curbed by accompanying restrictions. For example, Dual occupancy development is essentially limited to the conversion of existing dwellings, and these cannot be subdivided. Townhouse/villa housing is stated throughout the Strategy as not being supported on the basis of its site coverage, and there are no specific areas set aside for it on the Strategy maps. It is not sufficient to merely state that it may be given consideration for some sites.

It is unacceptable to not specifically provide for proper 4 storeys and above developments and to instead have to rely upon the uncertain and unnecessary requirement to masterplan in such cases. The confinement of 3 storey apartment buildings with an attic to land essentially along the Highway is not justified. Granny flats are not an appropriate alternative to SEPP 5 accommodation. The range of housing mix does not include provision for other types of housing such as small lot/integrated/cluster housing.

#### b. Limited scope for additional housing

**Issue** - Perceived by Council to be the same issue as above. However the issue here relates to restrictions in the provision of additional locations for multi-unit housing, not the range of general housing choice proposed under the Strategy.

**Minister's position** - The base studies commissioned by Council do not provide adequate justification for the confinement of new locational opportunities for multi-unit housing. **The effective sterilisation of whole areas within the core Strategy area from multi-unit housing on the basis of heritage unacceptable.** The exclusion of highly accessible areas near railway stations for further consideration in order to investigate certain issues (so called 'special areas') is not substantiated. Issues relating to topography and inadequate

infrastructure can be overcome with design innovations and infrastructure provision respectively.

#### **c. Limited opportunities for additional housing choice**

**Issue** - Council does not believe that its proposed development controls are unnecessarily restrictive. It seeks identification of the specific controls of concern and a demonstration of why they are unacceptable.

**Minister's position** - The development controls were assessed by the developer MIRVAC and found to be unnecessarily restrictive so as to hinder rather than facilitate development. Areas of concern were identified. These related to the proposed limitations on lot size (before the requirement to masterplan is invoked for lots over 3000sqm) and restrictions on amalgamation. The resulting requirement in many cases to masterplan 3 storey developments is not justified. Council was provided with the MIRVAC report and allowed to subject it to independent review. The resulting review by consultants engaged by Council (Hill PDA) arrived at primarily the same conclusions as MIRVAC. The Department's own internal assessment of the methodology of the MIRVAC report found that its estimations were appropriately liberal so as to allow for market fluctuations.

There is no merit in debating the restrictiveness of specific controls with Council as its entire package of controls is considered to be restrictive on the whole and the controls do not work in isolation from each other. Also the restrictiveness in Council's Strategy is not just confined to the control, but to many other aspects such as high S94 contributions levies, the requirements for traffic studies and a design quality review hurdle for all development, despite the additional requirement for development to be architect designed.

#### **d. Uncertainty of timeframe for Strategy implementation**

**Issue** - Council does not understand the specific concerns in relation to its proposed timeframe.

**Minister's position** - Council's estimation that the rezoning process for the Stage 1 area will be completed within 18 months is simply unrealistic given the raft of heritage investigations to be carried out. The process entails a raft of further investigations and studies. In addition to evaluating potential heritage (470 individual items and 20 conservation areas), Council proposes to evaluate potential 'contributory' items and 'special character areas' as well, and will also extend heritage investigations to areas beyond the core Strategy area.



Other non-heritage studies proposed to precede the LEP are: studies by infrastructure supply authorities, studies to finalise the housing type descriptions, traffic impact studies for each area that is located around a railway node. These were supposed to be included as part of infrastructure base studies. The mapping of soil types is also proposed.

Even if Council were to adhere to its timetable, no development would eventuate until at least 2004 due to a lack of immediate actions to enable housing combined with the lag effect of implementing an LEP/DCP.

#### **e. Changed circumstances**

**Issue** - Council is of the view that the Government has changed its requirements for exemption from SEPP 53 so that the preparation of a Residential Development Strategy is no longer the sole basis.

**Minister's response** - The Government has never deviated from its advice to any council that the sole basis for exemption from SEPP 53 is the preparation of an acceptable Residential Development Strategy.

#### **f. Rezoning applications**

**Issue** - Council considers the Government's concern over its refusal to deal with rezoning applications while preparing the Strategy to be unjustified.

**Minister's response** - Council's Strategy clearly states that it has imposed a moratorium on all rezonings until the Minister's decision on its Strategy is known. It has not approved existing applications and has not accepted new ones.

Council's view that it was inappropriate to approve or deal with rezoning applications represents a backdown on its agreement with the Minister in June 1999 to consider rezoning applications 'on their merits'. This was a condition of the further extension granted to Council to complete its Strategy.

Council indicates that it has accepted an application to rezone the large St Columban's land at North Turramurra from special uses to residential. However, it is noted that Council is requiring covenant restrictions on the subdivision and development as a condition of the rezoning in order to sterilise it from multi-unit housing development.

Council has asked for advice on prospective rezoning applicants who have claimed to have been turned away by Council. It is not the Minister's role to provide this advice. Council's refusal to deal with applications based on lack of

apparent merit in view of the proposed Strategy demonstrates its unwillingness to be adopt a flexible approach.

**g. Request for details on expectation on content of LEP/DCP**

**Issue** - Why does Council have to produce LEP/DCP and its strategy alone is not adequate for exemption?

Council has indicated its surprise at the requirement for exemption from SEPP 53 being extended to the LEP stage which ordinarily applies only after a strategy has been approved.

**Minister's response** - The Department will guide Council in the preparation of its LEP/DCPs to ensure that it fully understands the expectations from the documents.

Council's inability to prepare an acceptable Strategy since 1996, particularly one which does not suffer from the same deficiencies as those in the past, has given the Minister a lack of confidence in Council's commitment. As a result, he has decided not to allow it yet another attempt at a Strategy. The appropriate means of now ensuring commitment from Council is to advance matters to the LEP/DCP stage. (Similar to Burwood.)

**h. Stage 2 Strategy area - remainder of Council's LGA**

**Issue** - Council seeks clarification on what the strategic review will require.

**Minister's response** - Council will be expected to review its strategy in particular the development standards and the amount of housing choice it is providing. The Minister will expect to see the LEPs and DCPs which will implement this strategy which will need to be agreed to by the Minister. Once stage 1 LEPs and DCPs are forthcoming then exemption to SEPP 53 will be considered. The work to be undertaken on the Stage 2 will form part of the agreement with Council and include a timetable. If Council does not meet this timetable then the Minister will review his decision on SEPP 53 if the exemption has been forthcoming at Stage 1.

**i. Consultation with development Industry**

**Issue** - Council seeks clarification on "consultation with the development" industry.

**Minister's response** - When Council has reached the stage where it has a draft review the Department will provide the Council with a list of organisations and names that Council may consult with. This will also include Stage 2.



The consultation with the development industry will ensure that whatever council is submitting to the Minister has been reality checked insofar that it is financially viable so that the Minister is confident that the Strategy will deliver on adequate housing choice and additional housing.

It is important to note that many councils have not been required to provide this advice because their strategy did not raise concerns about viability and implementation.

**j... Numbers**

Issue - No targets were set.

**Ministers response** - This is a repeat of an earlier issue.

**k. Exemption for SEPP/LEPs/DCPs**

Answered above

**l. SEPP 5**

Issue - Council is claiming that a high percentage of their dwelling stock is existing SEPP 5 and this distorts their demographic indicators. It is for this reason that they have a high elderly population. They claim that they have provided adequate SEPP5 development and they should be allowed exemption so that their demographic profile matches the Sydney average.

**Minister's response** - the reason Council has so much SEPP 5 development is that over the past twenty years Council has not supplied suitable accommodation alternatives. Once Council has prepared an appropriate strategy and review and, particularly after stage 2, and the Department has in place criteria for exemptions from SEPP 5 this issue will be looked at.

IN THE SUPREME COURT  
OF NEW SOUTH WALES  
SYDNEY REGISTRY  
EQUITY DIVISION  
No. 6144 of 2004

**SUBPOENA FOR  
PRODUCTION**

Filed for Ronro Pty Limited

**RONRO PTY LIMITED**  
070 820 326  
Plaintiff

**AVON ROAD PYMBLE PTY  
LIMITED**  
104 893 683  
Defendant

To: **DEPARTMENT OF INFRASTRUCTURE, PLANNING  
AND NATURAL RESOURCES**  
of 22-33 Bridge Street  
SYDNEY NSW 2000

**YOU ARE ORDERED:**

- \* ~~to attend to give evidence—See section A of this form, or~~
- \* ~~to produce this subpoena or a copy of it and the documents or things specified in the Schedule – see section B of this form, or~~
- \* ~~to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule—see section C of this form.~~

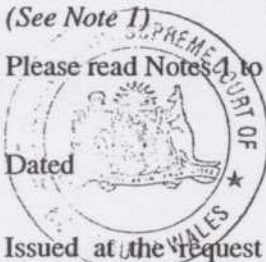
Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

The last date for service of this subpoena is: 17 February, 2005.

(See Note 1)

Please read Notes 4 to 15 at the end of this subpoena.

Dated



08 FEB 2005

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Issued at the request of Neil Williamson the Solicitor for the Plaintiff, whose address for service is:

C/- REIMER WINTER WILLIAMSON, Solicitors  
6 Macquarie Avenue  
Penrith NSW 2750  
DX 8006 PENRITH

Service by Facsimile Transmission will be accepted.  
FACSIMILE NUMBER: (02) 4721 5629

**REIMER WINTER  
WILLIAMSON**  
Solicitors  
6 Macquarie Avenue  
PENRITH NSW 2750  
DX 8006 PENRITH  
Tel: (02) 4731 6966  
Fax: (02) 4721 5629  
Ref: NW.SL.20041705

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**A Details of subpoena to attend to give evidence only**

Date, time and place at which you must attend to give evidence:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

**B Details of subpoena to produce only**

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production, or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the address below so that they are received not less than 2 clear days before the date specified for attendance and production. (*See Notes 5-11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things:

Date: 24 February, 2005.

Time: 9.30am

Place: Queens Square, Sydney

Address to which the subpoena (or copy) and documents or things may be delivered or posted:

The Exhibits Office  
Level 5, Supreme Court of NSW  
GPO Box 3, Sydney 2001

**Schedule**

The documents and things you must produce are as follows:

1. All documents, applications, plans, correspondence, memorandums, notes, receipts touching upon or concerned with planned development, subdivision, construction or land use relating to the whole of the land in Lot 12, Deposited Plan 546480 and Lot 7 in Deposited Plan 5448 in Folio Identifiers 12/546480 and 7/5448 and known as Part 3 and 5A Pymble Avenue, Pymble, between the First December, 2003 to the 6th October, 2004.



**C Details of subpoena both to attend to give evidence and to produce**

In so far as you are required by this subpoena to attend to give evidence, you must attend as follows:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production, or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the address below so that they are received not less than 2 clear days before the date specified for attendance and production. (*See Notes 5-11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things:

Date:

Time:

Place:

Address to which the subpoena or a copy of it and documents or things may be delivered or posted:

The Exhibits Office  
Level 5, Supreme Court of NSW  
GPO Box 3, Sydney 2001

**Schedule**

The documents and things you must produce are as follows:

## Notes

### Last day for service

- 1 You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

### Informal service

- 2 Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

### Addressee a corporation

- 3 If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

### Conduct money

- 4 You need not comply with the subpoena in so far as it requires you to attend to give evidence *unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.*

### Production of subpoena or copy of it and documents or things by delivery or post

- 5 In so far as this subpoena requires production of the subpoena or a copy of it and a document or thing, instead of attending to produce the subpoena or a copy of it and the document or thing, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the document or thing to the address specified in the subpoena for the purpose so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production.
- 6 If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
- 7 Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

### Production of a number of documents or things

- 8 If you produce more than one document or thing, you must, if requested by the Registrar, produce a *list of the documents or things produced.*

### Production of copy instead of original

- 9 You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.

### Return or destruction of documents or copies

- 10 You may, at the time of production, inform the Court that any document or copy of a document produced need not be returned and may be destroyed.
- 11 If you have so informed the Court, the Registrar may destroy the document or copy instead of returning it to you.

**Applications in relation to subpoena**

- 12 You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena, and
  - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

**Loss or expense of compliance**

- 13 If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

**Contempt of court—arrest**

- 14 Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
- 15 Instruction 14 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.



# **COUNCIL FACILITIES COMMITTEE CHARTER**

## **Charter of Responsibility**

### **Authority and functions of the Committee**

The Committee exercises its functions under section 355 (a) of the Local Government Act.

### **Objectives**

1. To report and make recommendations to Council on proposed strategies for new and existing facilities, including town centres.
2. To develop funding strategies for these facilities.
3. To make recommendations on the priorities for Council Facilities.
4. To develop methodology for Council's property portfolio management.
5. To undertake other matters referred to the Committee by Council.

### **Chairperson**

The Chairperson of the Council Facilities Committee will be a Councillor of Ku-ring-gai Council appointed by Council.

### **Membership**

Membership of the Council Facilities Committee will consist of Councillors and staff of Council as follows:

- One (1) Councillor from each Ward  
(Note: if a Councillor from a Ward does not nominate for the Committee, the core membership may be reduced accordingly)
- General Manager
- Director Finance and Business
- Director Open Space and Planning
- Director Community Services
- Director Technical Services
- Other interested Councillors
- Other staff as required

Members of the Committee are each entitled to one vote on all resolutions excepting those making recommendations to the Council in respect of which the staff members of the Committee will have no voting rights. In the event of an equality of votes, the Chair of the meeting shall have a second or casting vote.

## **Appointment to Committee**

Appointment to the Committee is on an annual basis with the members being appointed by Council.

## **Quorum**

The quorum will require a minimum of four (4) Councillors, at least two (2) of whom shall have been elected by Council as members of the Committee. In the event that the Chair or Deputy Chair as elected by Council is not able to attend the meeting, a Councillor will be elected to Chair the meeting.

## **Role of Staff**

Staff required to attend the Committee will participate equally with Councillors in terms of discussion and debate but do not have any voting rights for recommendations from the Committee.

## **Representation**

Representatives of the community or other organisations may be invited or requested to address the Committee on matters on the agenda. Council Facilities Committee will generally not be open to members of the public, however, should the Committee wish, it may open the meeting to the public.

## **Scope**

The scope of the Committee will encompass Council facilities, strategies and priorities, including but not limited to:

- ◆ Council buildings
- ◆ Public domain areas
- ◆ Car parks in the Town Centres
- ◆ Council Depot
- ◆ North Turrumurra Recreation Area
- ◆ Aquatic Centre
- ◆ West Pymble Pool
- ◆ Parks and recreation areas
- ◆ New open space acquisitions
- ◆ New facilities and funding options

Any matter that is considered to impact on other Committees of Council may need to be referred to the relevant Committee for information or consideration prior to being fully considered by this Committee and referring any recommendation to Council.

## **Meetings**

The Committee is to meet quarterly or more frequently as required providing there is sufficient material to be considered. The General Manager and the Chairperson of the Committee will determine whether there will be sufficient matters before the Committee to hold a meeting.

Meetings will be held in the Ante Room, Council Chamber or other suitable location. The location and starting time and date will be advised on the agenda.

## **Report to the Committee**

The Committee will make recommendations to Council on all reports on the agenda items.

## **Dissemination of Information**

Notes of each meeting will be taken and provided to Councillors. Additionally, notes will also be provided to other Committees/Working Parties of Council if considered to be relevant and appropriate. The information will be made publicly available on Council's website with the exception of any matter which the Committee resolves to be confidential.

## **General Business**

Members of the Committee may raise special matters that they believe are within the charter given to the Committee for consideration and a report will be prepared on the matter by Council's Officers for a future meeting of the Committee.

## **Administrative Support**

Administrative support will be provided for the preparation of the agenda, recording of the minutes and distribution of the agenda and business papers.

## **Urgent Reports**

Any matters of an urgent nature which would normally be considered by the Council Facilities Committee may be reported directly to Council.

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