

## **MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 23 AUGUST 2005**

- Present: The Mayor, Councillor A Ryan (Chairperson) (Gordon Ward)  
Councillors A Andrew & E Malicki (Comenarra Ward)  
Councillors L Bennett & T Hall (St Ives Ward)  
Councillors I Cross & N Ebbeck (Wahroonga Ward)  
Councillors G Innes & M Shelley (Roseville Ward)  
Councillor M Lane (Gordon Ward)
- Staff Present: General Manager (Brian Bell)  
Director Development & Regulation (Michael Miocic)  
Manager Development Assessment Services (Matthew Prendergast)  
Director Technical Services (Greg Piconi)  
Director Open Space (Steven Head)  
Director Finance & Business (John McKee)  
Manager Urban Planning (Antony Fabbro)  
Manager Community Development (Danny Houseas)  
Senior Governance Officer (Geoff O'Rourke)  
Office Co-ordinator/WP (Casey Locke)

*The Meeting commenced at 7.02pm*

*The Mayor offered the Prayer*

### **DECLARATION OF PECUNIARY INTEREST**

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

No such interest was declared.

### **333 CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING**

File: S02499

#### **Resolved:**

(Moved: Councillors Cross/Ebbeck)

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

- C.1 Confidential Selection of Consultant - Mayoral Minute by the Mayor, Councillor A Ryan dated 23 August 2005.

**CARRIED UNANIMOUSLY**

## **ADDRESS THE COUNCIL**

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

N Pallin  
J Langley  
V Harris

## **DOCUMENTS CIRCULATED TO COUNCILLORS**

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

Refers OMC Minute 288 of 19 July 2005 & OMC Minute No 293 of 26 July 2005:	Memorandum by Senior Governance Officer dated 22 August 2005
Councillors Information:	Site Inspections Minutes: Saturday, 13 August 2005 at 11 Gregory Street, Roseville; 38 Owen Street, Roseville & 1691 to 1693 Pacific Highway, Wahroonga
Refers GB.3:	Outdoor Dining & Footpath Trading Policy - Memorandum from Manager Urban Planning dated 19 August 2005
Refers GB.14:	Amendment to DCP 55 - Nominated Area Provisions for Lindfield & Turramurra - Memorandum by Manager Urban Planning dated 23 August 2005
Refers NM.1:	8 to 12 Nola Road, Roseville - Memorandum from Director Development & Regulation dated 23 August 2005
Confidential Late Item:	Mayoral Minute by the Mayor, Councillor A Ryan dated 23 August 2005

**Councillor Shelley arrived**

## **CONFIRMATION OF MINUTES**

334 **Minutes of Ordinary Meeting of Council**  
File: S02131  
Meeting held 19 July 2005  
Minute numbered 288

### **Resolved:**

(Moved: Councillors Hall/Innes)

That consideration of the matter be deferred for the officers to prepare clarification of the existing Minutes and note which would provide Council with an appropriate record of the relevant proceedings for confirmation at a future meeting.

**CARRIED UNANIMOUSLY**

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

*That Minute No 288 read as follows:*

*(Moved: Councillors Bennett/Cross)*

- A. (i) That Council adopt the hybrid retail commercial option as shown in attachment D to guide future development of retail and commercial activity in St Ives as amended.
- (ii) Council adopts the recommendation of the retail consultant that there be a range of 3,500 to 5,000sqm retail increase on the East side of Mona Vale Road. That the lower figure be adopted in view of the impacts on Stanley Street and the Stanley Street/Mona Vale intersection.
- (iii) The St Ives Shopping Village be increased by a maximum of 10,000sqm to 28,000sqm of retail including the strip shops on Mona Vale Road;
- B. That Council prepare a draft LEP to rezone land for mixed use and medium density residential in the St Ives study area and notify the Department of its resolution under Section 54 Environmental Planning and Assessment Act.
- C. That Council notify relevant government agencies of its intention to prepare an LEP as required under Section 62 of the Environmental Planning and Assessment Act.
- D. That the draft LEP propose rezoning of the lands shown as either light blue or dark blue and edged with a dark line (including “Eden Brae” Lot 1-24 Stanley Close but excluding 152 Mona Vale Road), on the map shown in attachment G for mixed use development permitting development of 4 to 6 storeys in accordance with the principles for mixed use set out in the Section headed “Proposals for Zoning”.
- E. That the traffic consultant model the (traffic and parking) impacts of the additional commercial zoning recommended in Attachment G and that the written analysis be presented to the Planning Committee.

That the draft LEP propose the rezoning of the lands shown dark red and edged with a dark line on the map shown in attachment G to permit commercial and professional consultancy use, and associated parking with the density in LEP 194.

F. That the draft LEP rezone the following properties to permit medium density development up to 5 storeys consistent with the density in LEP 194:

1. 201 Mona Vale Road, St Ives.
2. 165 Mona Vale Road, St Ives.
3. 8 Shinfield Avenue, St Ives.
4. 12, 16, 18 to 22 Stanley Street, St Ives.

G. That the draft LEP rezone the following properties to permit medium density development up to 3 storeys:

1. 124, 126 and 128 Killeaton Street, St Ives
2. 161 and 163 Rosedale Road, St Ives
3. 27 College Crescent, St Ives Chase (also known as 327 Link Road – former CBA Training Centre)
4. 238 to 240 Mona Vale Road, St Ives (formerly known as Camelia Grove Nursery)

H. That the draft LEP propose reclassification of the following site from community land to operational land:

176 Mona Vale Road, St Ives (Lot 103 DP 627012/Lot 105 DP 629388).

*The following part of Councillor Bennett's Original Motion lapsed with the adoption of (H) above.*

That the classification and zoning status of the other sites nominated in the officer's recommendation be referred to the Planning Committee for discussion and the outcome of any such discussions be reported to Council. That no further action be taken on these sites until this has occurred and that lawyers/consultants involved in the Kogarah public domain case be invited to attend the Planning Committee to give a presentation and respond to questions.

I. That the Draft LEP be exhibited in accordance with the requirements of LEPs and *Council Land Best Practice Guideline* (January 1997).

J. That a public hearing be conducted as part of the LEP exhibition in accordance with the relevant provisions of the Local Government Act 1993.

K. That Council prepare a draft DCP for the St Ives Town Centre in accordance *with* the table of contents shown in Attachment J to provide more detailed development controls. This DCP is to incorporate the vision statement for St Ives, the principles and objectives as set out in this report and set site specific building envelopes. That the DCP and LEP be considered by the Planning Committee.

L. In relation to the properties known as Eden Brae that there be provisions in the LEP requiring that the site be amalgamated and redeveloped as a whole.

- M. That prior to being placed on exhibition that the draft LEP and draft DCP be brought back to Council to further resolve to exhibit the documents as presented to Council.
- N. That Council prepare a public domain concept plan for the St Ives Centre, an action plan for traffic and parking management, proposals for community facilities and other proposals for a schedule of works for inclusion in a draft Section 94 Plan. That staff recommendations on these matters be referred to the Planning Committee for discussion.
- O. That Council obtain economic feasibility assessment by a suitably qualified consultant to test the proposed controls in the LEP and DCP for land rezoned for mixed use and or medium density development.
- P. That the plan for St Ives as resolved in A-O above be placed on public exhibition for 28 days. That submissions made in this time be reported to Council before the adoption for exhibition of the DLEP and DCP for the St Ives Centre.
- Q. That the proposals for shop top housing (location, amount) and design options (developed to date) be incorporated and exhibited as material in the preliminary plan.
- R. That a Report on the traffic implications of the staff recommendations be brought to Council in August.

335

## **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 9 August 2005

Minutes numbered 311 to 332

### **Resolved:**

(Moved: Councillors Malicki/Lane)

- A. That Minutes numbered 311 to 332 circulated to Councillors were taken as read & confirmed as an accurate record of the proceedings of the Meeting, except for Minute numbered 325.

**CARRIED UNANIMOUSLY**

(Moved: Councillors Malicki/Lane)

- B. That Minute numbered 325 be adopted with changes to the following Conditions:
  - 1A. An amended landscape plan shall be submitted which provides for the retention of the following Camphor Laurel trees which are located along the western boundary, the trees **and other trees** are identified in Annexure A of the Deed of Agreement between Meriton Property Management Pty Ltd and Andrew and Catherine Cecilia Franklin of 1578 Pacific Highway, Wahroonga:

Trees numbered - 97, 99, 100, 100C, 102, 104, 107, 108, 109, 110, 111, 112, 113, 113A, 119.

14. **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, removal of spoil and delivery of machinery 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.** **Heavy** vehicles are not to arrive prior to 6.30am. 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 **or other noisy equipment.**

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.

**CARRIED UNANIMOUSLY**

## **GENERAL BUSINESS**

### **336 Investment Cash Flow & Loan Liability - July 2005**

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File: S02722

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

#### **Resolved:**

(Moved: Councillors Shelley/Malicki)

That the summary of investments, daily cash flows & loan liability for July 2005 is received & noted.

**CARRIED UNANIMOUSLY**

### **337 Capital Works Program for Traffic Facilities 2005 to 2010**

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File: S03753

To seek Council approval for the Capital Works Program for Traffic Facilities for 2005 to 2010.

#### **Resolved:**

(Moved: Councillors Shelley/Cross)

That Council adopt the 2005 to 2006 Traffic Facilities Program & the draft 2006 to 2010 Program.

**CARRIED UNANIMOUSLY**

338 **2005 to 2006 RTA Program Funding**

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File: S02388

To approve Council's allocation of the 2005/2006 Roads & Traffic Authority Program Funding.

**Resolved:**

(Moved: Councillors Shelley/Lane)

That Council accept the grants totalling \$269,000 under the Traffic Management Program & that Council accept the grant of \$38,000 under the Road Safety Program.

**CARRIED UNANIMOUSLY**

339 **Minutes of Heritage Advisory Committee Meeting - Confirmation of Minutes of 27 April 2005**

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File: S03816

That Council receive & note the Minutes of the Heritage Advisory Committee meeting from 27 April 2005.

**Resolved:**

(Moved: Councillors Malicki/Bennett)

That Council receive & note the Minutes of the Heritage Advisory Committee meeting held on 27 April 2005.

**CARRIED UNANIMOUSLY**

340 **Bushland, Catchments & Natural Areas Reference Group - Minutes of Meeting of 20 June 2005**

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File: S03448

To bring to the attention of Council the proceedings from the Bushland, Catchments & Natural Areas Reference Group meeting held on Monday, 20 June 2005.

**Resolved:**

(Moved: Councillors Malicki/Andrew)

That the Minutes of the Bushland Catchments & Natural Areas Reference Group Meeting of 20 June 2005 be received and noted.

**CARRIED UNANIMOUSLY**

341 **West Pymble Swimming Pool - 2005/2006 Admission Fees by Lessee**

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File: S02348

For Council to approve the lessee's proposed admission fees to the West Pymble Swimming Pool for the 2005/2006 swimming season.

**Resolved:**

(Moved: Councillors Malicki/Ebbeck)

That Council approve the proposed 2005/2006 admission fees for West Pymble Swimming Pool as requested by the Lessee & as outlined in the report.

**CARRIED UNANIMOUSLY**

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

342 **Developer Contributions & Improvements to Traffic Infrastructure**

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File: S02073

**Notice of Motion from Councillor L Bennett dated 12 August 2005.**

I move that:

- "A. As a matter of urgency Council seek advice from s94 planners as to what traffic infrastructure improvements for St Ives can be funded through an amendment to the current s94 plan and these include those outlined in the Traffic Study for St. Ives
- B. The advice includes an estimate of the extent to which they could be financed by developer contributions
- C. The General Manager advises as to when the Council resolution on "Undergrounding of Car Parks and Section 94 Contributions" will be fully actioned."

**Resolved:**



(Moved: Councillors Bennett/Hall)

That the above Notice of Motion as printed be adopted.

**CARRIED UNANIMOUSLY**

*Standing Orders were suspended to deal with  
items where there are speakers starting with  
GB.5 - St Ives Town Centre Planning - Traffic Options  
after a Motion moved by Councillors Innes & Lane  
was CARRIED UNANIMOUSLY*

**GENERAL BUSINESS (cont)**

343 **St Ives Town Centre Planning - Traffic Options**

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File: S04020

To report to Council on the traffic implications associated with the proposed re-development of the St Ives Town Centre associated with the Stage 1 & proposed Stage 2 re-development of St Ives.

**Resolved:**

(Moved: Councillors Bennett/Hall)

- A. That the report be received and noted.
- B. That a site inspection be held to consider parking, traffic, public domain and design issues after the public domain and design issues have been presented to the Planning Committee.

**CARRIED UNANIMOUSLY**

*A Motion was moved by Councillors Malicki & Cross  
to hear all speakers was CARRIED UNANIMOUSLY*

344 **49 Telegraph Road, Pymble - Additions & Alterations plus Carport & Driveway**

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File: DA0642/05

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

**D McGovern**

To respond to issues raised at the Council site inspection of 6 August 2005 & seek Council's determination of Development Application, DA0642/05.

**Resolved:**

(Moved: Councillors Hall/Bennett)

That the matter be deferred for an independent Heritage Impact Statement & referred back to Council.

*For the Resolution: Councillors Andrew, Bennett, Cross, Hall, Innes, Malicki & Shelley*

*Against the Resolution: The Mayor, Councillor A Ryan, Councillors Ebbeck & Lane*

345 **2 Cynthia Street, Pymble - Alterations & Additions to Existing Dwelling, New Pool, Cabana & Front Fence**

File: DA0528/04A

Ward: Comenarra

Applicant: Loraine Unicom

Owner: Loraine & Geoffrey Unicom

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

**N Ingham**

**L Unicom**

**G Unicom**

To determine Section 82A Review of Development Application No. DA0528/04A, for alterations & additions to existing dwelling, new pool, cabana & front fence.

**Resolved:**

(Moved: Councillors Malicki/Andrew)

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

**REFUSAL –**

THAT Council, as the consent authority, confirm its decision to refuse development consent to Development Application No. 0528/04A for alterations & additions to the existing dwelling, new pool & cabana on land at 2 Cynthia Street, Pymble, as shown on plans 01 - 07, dated February 2004, & prepared by Design Confidential for the following reasons:

**Streetscape**

1. The location of the double garage forward of the established building line results in an adverse streetscape impact.

Particulars

- (i) The proposed garage fails to comply with clause 5.5.2 of DCP 38 in that it provides car parking forward of the building line where it is possible to provide parking behind the building line.
- (ii) The proposed garage fails to comply with clause 5.5.3 of DCP 38 in that the design of carport & garage structures should be sympathetic to existing development on-site & consider adjacent buildings. Further, carport & garage structures should not dominate the site or the streetscape.
- (iv) The proposed driveway opening does not comply with AS/NZS 2890.1 (2004) - "Off-street car parking".
- (v) The proposed front fence does not conform to the streetscape as it is too high & does not comply with the requirements of DCP 38, Section 5.1.5 *Front Fences*. The proposed front fence is not consistent with the established pattern of fences, which are considerably lower or non-existent.

**Impact to tree**

2. The proximity of the work station to the *Angophora costata* allows for removal under Council's Tree Preservation Order, & will impact on the health of the tree.

Particulars

- (iii) The proposed work station area is within 3.0m of an existing *Angophora costata* to the rear western boundary. The work station area should be reconfigured or deleted, so that the building is a minimum of 4 metres from the *Angophora costata*.

*For the Resolution:*            *The Mayor, Councillor A Ryan, Councillors Bennett, Innes, Lane, Malicki & Shelley*

*Against the Resolution:*    *Councillors Andrew, Cross, Ebbeck & Hall*

346

**6 to 8 Culworth Avenue, Killara - Supplementary Report**

File: DA1369/04

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

**C Blyth  
T Armstrong**

To respond to issues raised at the Council site inspection & seek Council's determination of the Development Application.

**Resolved:**

(Moved: Councillors Lane/Innes)

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

THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 - Development Standards* to the zone interface standard (CI 25) 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 & unnecessary in the circumstances of this case as the SEPP1 objection has demonstrated that the underlying objective or purpose of the standard has been satisfied.

**AND**

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No 1 is well founded & also being of the opinion that the granting of consent to DA 1369/04 is consistent with the aims of the Policy, grant development consent to DA 1369/04 for the demolition of two (2) existing residential dwelling houses & construction of three (3) five storey residential flat buildings comprising fifty-four (54) units & basement car parking for one hundred & one (101) vehicles on land at 6 to 8 Culworth Avenue, Killara, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

**Development in Accordance with Plans (New Development)**

**GENERAL**

1. The development must be carried out in accordance with plans numbered:

Lower Basement Plan	Drawing No: 20425 DA-02	Revision D	May 2005
Upper Basement Plan	Drawing No: 20425 DA-03	Revision D	May 2005
Ground Floor Plan	Drawing No: 20425 DA-04	Revision D	May 2005
Level 1 & Level 2 Floor Plans	Drawing No: 20425 DA-05	Revision E	May 2005
Level 3 Floor Plan	Drawing No: 20425 DA-06	Revision D	May 2004
Level 4 Floor Plan	Drawing No: 20425 DA-07	Revision D	May 2004
Roof Plan	Drawing No: 20425 DA-08	Revision D	May 2005
Elevations & Sections	Drawing No: 20425 DA-09	Revision C	May 2005
Elevations	Drawing No: 20425 DA-10	Revision D	May 2005

Dated May 2005, drawn by Winter Group, and endorsed with Council's approval stamp, except where amended by the following conditions:

2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent & the approved plans & an Occupation Certificate has been issued.
3. All building works shall comply with the Building Code of Australia.
4. 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 & may result in the demolition of work.

5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan & this Consent & Construction Certificate shall be kept on site at all times.
7. For the purpose of safety & 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 & safe condition during building operations. Council reserves the right, without notice, to rectify any such breach & to charge the cost against the applicant/owner/builder, as the case may be.
8. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building & 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 & 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 & loaders, jackhammers, Ramset guns, concrete mixers & concrete delivery wagons, hoists, winches, welding and riveting plant.

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

9. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted & showing the name of the builder or another person responsible for the site & a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
10. A sign shall be erected in a prominent position on the site which states the name & contact details of the Principal Certifying Authority.
11. All excavations shall be properly guarded & protected with hoardings or fencing to prevent them from being dangerous to life and property.
12. To maintain existing ground levels all excavated material shall be removed from the site.
13. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.

14. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
  - a. The type & size of machinery proposed.
  - b. The routes of all trucks to convey material to & from the site.
  - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
15. 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 & 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 & 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 & 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.
16. 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.
17. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
18. 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.
19. 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.

- 20. 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.
- 21. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the Subdivision Certificate.
- 22. If the work involved in the erection or demolition of a building:
  - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

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

24. **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.

25. The fence and footings shall be constructed entirely within the boundaries of the property.
26. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
27. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
28. 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.
29. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
30. 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.

31. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
32. 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.
33. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
34. 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.
35. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
36. Fire hoses are to be maintained on site during the course of demolition.
37. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
38. 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.
39. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- a. stating that unauthorised entry to the work site is prohibited, and
  - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
- b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

40. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling. In particular, all windows and recyclable features from the dwelling at No.6 Culworth Avenue must be removed prior to demolition and made available for re-use.
41. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
42. Under no circumstances shall building materials, demolition waste, fill, soil or any other material from any source be placed or stored within any public reserve.
43. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.
44. 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.
45. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

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

46. Landscape works shall be carried out in accordance with Landscape Drawing No la01 Rev B, LA02 Rev B, LA03 Rev B, La04 Rev B, La05 Rev B prepared by Taylor Brammer and dated 11 May 2005 submitted with the Development Application. The landscape works shall be completed prior to issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.

The landscape plans shall be amended to indicate the removal of tree # 29. The arborist's report shall be amended to reflect the tree removal and be revised to ensure that all references to the landscape plans are consistent and accurate.

47. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

48. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
#1 <i>Arecastrum romanzoffianum</i> (Cocco Palm) Adjacent to eastern/Culworth Ave site boundary	3.0m
#2 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to eastern/Culworth Ave site boundary	3.0m
#3 <i>Nyssa sylvatica</i> (Tupelo) Adjacent to eastern/Culworth Ave site boundary	4.5m on the north-west side 6.0m elsewhere
#4 <i>Malus floribunda</i> (Crabapple) side Adjacent to eastern/Culworth Ave site boundary	2.0m on the north-west 4.0m elsewhere
#10 <i>Ulmus parvifolia</i> (Chinese Elm) Adjacent to northern site boundary	4.5m
#28 <i>Eucalyptus acmenoides</i> (White Mahogany) Adjacent to western site boundary	3.0m
#36 <i>Magnolia soulangeana</i> (Soul's Magnolia) Centrally located adjacent to north east site corner	4.0m
#40 <i>Ulmus parvifolia</i> (Chinese Elm) Adjacent to northern site boundary	4.0m
#41 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to northern site boundary	6.0m
#42 <i>Cordyline australia</i> (Cabbage tree) Adjacent to northern site boundary	2.0m
#47 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to north-east site corner in neighbouring property	11.0m
#50 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to eastern site boundary	4.0m
#54 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to northern site boundary in neighbouring property	4.0m
#55 <i>Acer palmatum</i> (Japanese Maple) Adjacent to northern site boundary in neighbouring property	4.0m

49. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the

Arborist to the principal certifying authority shall be required at quarterly/three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

50. Paving works within the specified radius of the trunk/s of the following tree/s shall be constructed to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be submitted to the Principal Certifying Authority for approval by a suitably qualified professional prior to the commencement of paving construction:

Tree/Location	Radius From Trunk
#10 <i>Ulmus parvifolia</i> (Chinese Elm) Adjacent to northern site boundary	4.5m
#36 <i>Magnolia soulangeana</i> (Soul's Magnolia) Centrally located adjacent to north east site corner	4.0m
#50 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to eastern site boundary	4.0m
#54 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to northern site boundary in neighbouring property	4.0m
#55 <i>Acer palmatum</i> (Japanese Maple) Adjacent to northern site boundary in neighbouring property	4.0m

51. No mechanical excavation of the proposed structure shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

Tree/Location	Radius From Trunk
#3 <i>Nyssa sylvatica</i> (Tupelo) Adjacent to eastern/Culworth Ave site boundary	6.0m
#4 <i>Malus floribunda</i> (Crabapple) Adjacent to eastern/Culworth Ave site boundary	3.0m
#10 <i>Ulmus parvifolia</i> (Chinese Elm) Adjacent to northern site boundary	4.5m
#28 <i>Eucalyptus acmenoides</i> (White Mahogany) Adjacent to western site boundary	3.5m
#50 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to eastern site boundary	4.0m

52. 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
#3 <i>Nyssa sylvatica</i> (Tupelo) Adjacent to eastern/Culworth Ave site boundary	4.0m
#4 <i>Malus floribunda</i> (Crabapple) Adjacent to eastern/Culworth Ave site boundary	2.0m
#10 <i>Ulmus parvifolia</i> (Chinese Elm) Adjacent to northern site boundary	4.5m
#28 <i>Eucalyptus acmenoides</i> (White Mahogany) Adjacent to western site boundary	3.0m
#36 <i>Magnolia soulangeana</i> (Soul's Magnolia) Centrally located adjacent to north east site corner	4.0m
#42 <i>Cordyline australia</i> (Cabbage tree) Adjacent to northern site boundary	2.0m
#50 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to eastern site boundary	4.0m
#54 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to northern site boundary in neighbouring property	3.0m
#55 <i>Acer palmatum</i> (Japanese Maple) Adjacent to northern site boundary in neighbouring property	4.0m

53. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
54. Transplanting of the nominated trees/shrubs shown on the Landscape plan, shall be directly supervised by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
55. 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.
56. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the interallotment drainage system benefitting the properties. New drainage line connections shall conform and comply with the requirements described in sections 5.3 and 5.4 of Council's Water Management Development Control Plan 47.
57. A mandatory rainwater re-use tank system comprising stormwater tanks and rainwater tanks of minimum volume required in chapter 6 of Council's Water Management Development Control Plan 47 (DCP47), must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. A mains top-up

shall be provided for periods of low rainfall, with a void space left for runoff storage purposes.

58. For stormwater control, 200mm wide grated channel/trench drains with heavy-duty removable galvanised grates are to be strategically placed to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
59. A maintenance period of six (6) months shall apply to all works in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
60. Where required, the adjustment or additions of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
61. All public footways and accessways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
62. 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.
63. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking" as a minimum requirement.
64. For the purpose of any further plan assessment and works inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule

of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final sign-off from Council.

65. 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. Applicant shall 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.
66. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
67. Geotechnical aspects of the development works, particularly excavation, support, retention and hydrogeological considerations must be undertaken in accordance with the recommendations of the Coffey Geosciences report of 13 December 2004 and subsequent geotechnical investigations, comprising cored boreholes, carried out for construction purposes.
68. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
69. All construction traffic control and management measures shall be implemented in accordance with an approved *Construction Traffic Management Plan* to be submitted and approved by Council prior to the commencement of works. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
70. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, no doors or gates shall be provided in the access driveways to the basement car park which would prevent this service.
71. 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.

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

72. 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.

73. 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).
74. 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.
75. 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.
76. 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 FIFTY-TWO (52) ADDITIONAL DWELLINGS IS CURRENTLY \$1,154,351.30. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

#### OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

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

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

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

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

79. A CASH BOND/BANK GUARANTEE of \$14,500.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

#3 *Nyssa sylvatica* (Tupelo) \$4,000.00  
Adjacent to eastern/Culworth Ave site boundary

#4 *Malus floribunda* (Crabapple) \$500.00  
Adjacent to eastern/Culworth Ave site boundary

#10 *Ulmus parvifolia* (Chinese Elm) \$4 000.00  
Adjacent to northern site boundary

#28 *Eucalyptus acmenoides* (White Mahogany) \$2,000.00  
Adjacent to western site boundary

#36 *Magnolia soulangeana* (Soul's Magnolia) \$1,000.00  
Centrally located adjacent to north east site corner

#41 *Liquidambar styraciflua* (Sweet Gum) \$1,000.00  
Adjacent to northern site boundary

#49 *Stenocarpus sinuatus* (Q'ld Firewheel tree) \$1,000.00

Adjacent to eastern site boundary

#50 *Jacaranda mimosifolia* (Jacaranda) \$1,000.00

Adjacent to eastern site boundary

80. To preserve the following tree/s, footings of the proposed works shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 50mm shall be severed or injured in the process of any site works during the construction period. The beam shall be located on or above existing soil levels.

The location and details of the footings shall be submitted to Council's Landscape Development Officer and be approved prior to release of the Construction Certificate.

Tree/Location

Radius in Metres

#10 *Ulmus parvifolia* (Chinese Elm)

4.5m

Adjacent to northern site boundary

#36 *Magnolia soulangeana* (Soul's Magnolia)

4.0m

Centrally located adjacent to north east site corner

81. Prior to issue of the Construction Certificate, a plan detailing services trenches in accordance with the relevant supply authorities (including electricity, gas, telephone, water and sewerage), shall be submitted for approval by the Principal Certifying Authority (PCA). The notice of requirements for Sydney Water must be obtained prior to issue of the Construction Certificate.
82. Prior to issue of the Construction Certificate the Applicant shall contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including cabling, need for substations or similar within the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate to the satisfaction of the PCA. The requirements of the utility provider shall be met in full prior to issue of the Occupation Certificate.
83. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossing between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths

or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.** The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

84. The applicant is to submit a design for the proposed pipe within the drainage easement through Selkirk Park and a junction pit over Council's underground stormwater drainage pipe. Approval is to be obtained from Council as the owner of Selkirk Park and submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.
85. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website). The design may be generally in accordance with the Concept Stormwater Management & Environmental Site Management Concept Plans, C1 to C5, dated Dec 2004, by Appleyard Forrest Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.
86. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, car washing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use, including pumps and back up power supply in the event of blackout, shall be shown on these plans to a detail suitable for installation by the plumbing services contractors. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
87. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for the on-site stormwater retention system. The minimum storage volumes and designs shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), any manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. Overflow shall revert to the main drainage system. The design and

construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. The design is to be in accordance with the Concept Stormwater Management & Environmental Site Management Concept Plans, C1 to C5, dated Dec 2004, by Appleyard Forrest Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.

88. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47. New connection points to the Council drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The design of these drainage components may be in accordance with the Concept Stormwater Management & Environmental Site Management Plans, C1 to C5, dated Dec 2004, by Appleyard Forrest Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes. **Water quality measures as described in Section 8.3 of DCP 47 are to be provided.**
89. The designing engineer is to certify with the Construction Certificate plans that measures have been included in the design of stormwater management measures which will prevent backflow from the underground system in Selkirk Park entering the retention storage during times of high stormwater flows in Council's system.
90. Prior to issue of the Construction Certificate, the applicant is to submit a geotechnical investigation report which contains specific recommendations for excavation support, vibration monitoring and dilapidation surveys if required.
91. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollar) public infrastructure damage bond with Council. This bond is applied under Section 97 of the Local Government Act to cover the restoration by Council of any damage to public infrastructure not repaired in full, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development and **at the end of any maintenance period** stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b) The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- c) Works in the public road associated with the development are to an unacceptable quality.

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

- 92. 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.
- 93. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to the commencement of work.
- 94. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
#1 <i>Arecastrum romanzoffianum</i> (Cocco's Palm) Adjacent to eastern/Culworth Ave site boundary	3.0m
#2 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to eastern/Culworth Ave site boundary	3.0m
#26 <i>Eucalyptus acmenoides</i> (White Mahogany) Adjacent to western site boundary	3.0m
#27 <i>Eucalyptus acmenoides</i> (White Mahogany) Adjacent to western site boundary	3.0m
#28 <i>Eucalyptus acmenoides</i> (White Mahogany) Adjacent to western site boundary	3.0m
#30 <i>Camellia japonica</i> (Japanese Camellia) Adjacent to eastern site boundary	3.0m
#31 <i>Camellia japonica</i> (Japanese Camellia) Adjacent to eastern site boundary	3.0m
#32 <i>Camellia japonica</i> (Japanese Camellia) Adjacent to eastern site boundary	3.0m
#34 <i>Pittosporum undulatum</i> (Native daphne)	4.0m

Adjacent to northern site boundary	
#35 <i>Syzigium leuhmanii</i> (Small leaf lillypilly)	5.0m
Adjacent to northern site boundary	
#36 <i>Magnolia soulangeana</i> (Soul's Magnolia)	4.0m
Centrally located adjacent to north east site corner	
#40 <i>Ulmus parvifolia</i> (Chinese Elm)	3.0m
Adjacent to northern site corner	
#41 <i>Liquidambar styraciflua</i> (Sweet Gum)	6.0m
Adjacent to northern site boundary	
#42 <i>Cordyline australia</i> (Cabbage tree)	2.0m
Adjacent to northern site boundary	
#44 <i>Ulmus parvifolia</i> (Chinese Elm)	3.0m
Adjacent to northern site corner	
#45 <i>Jacaranda mimosifolia</i> (Jacaranda)	5.0m
Adjacent to north-west site corner	
#47 <i>Eucalyptus saligna</i> (Bluegum)	10.0m
Adjacent to north-east site corner in neighbouring property	
#49 <i>Stenocarpus sinuatus</i> (Q'ld Firewheel tree)	3.0m
Adjacent to eastern site corner	
50 <i>Jacaranda mimosifolia</i> (Jacaranda)	4.0m
Adjacent to eastern site boundary	
54 <i>Jacaranda mimosifolia</i> (Jacaranda)	4.0m
Adjacent to northern site boundary in neighbouring property	
#55 <i>Acer palmatum</i> (Japanese Maple)	4.0m
Adjacent to northern site boundary in neighbouring property	

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

Tree/Location	Radius From Trunk
#3 <i>Nyssa sylvatica</i> (Tupelo)	6.0m
Adjacent to eastern/Culworth Ave site boundary	
#4 <i>Malus floribunda</i> (Crabapple)	3.0m

Adjacent to eastern/Culworth Ave site boundary

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

Tree/Location	Radius From Trunk
#10 <i>Ulmus parvifolia</i> (Chinese Elm) Adjacent to northern site boundary	4.5m

97. 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.
98. If it is essential for scaffolding to be erected within a protected area, fencing should be erected to provide just sufficient space for scaffolding. The ground between this fence and the building should be protected by boarding (eg scaffold boards). A single thickness of boarding laid on the soil surface will provide sufficient protection for pedestrian loads, but more substantial boarding sufficient to spread the load should be used for heavier traffic. The ground beneath the boarding should be left undisturbed and should be protected with a porous geotextile fabric. If necessary, sand should be laid on the fabric to level the ground. When required, the building scaffolding should be erected. The boarding should be left in place until the building works are finished.
99. If temporary vehicle access is required near a tree to be retained, 75x75x2000mm hardwood planks are to be lain over a mulched area to a depth of 100mm with organic material being 75% leaf litter and 25% wood to distribute weight and to minimise compaction of soil profiles beneath. Timber lengths are to be secured on top of such to avoid movement and the structure should be constructed to accommodate vehicles that are to be used on site. Structural soil or similar should be used as a subgrade placed above existing soil levels for alternate driveway surfaces to support larger site vehicles or more rigid type temporary sealed road surfaces.
100. Tree protection signage is to be attached to each tree protection zone and displayed in a prominent position and the sign repeated at 10.0m intervals or closer where the fence changes direction. The signs to be a minimum size of 600mm x 500mm. Example details, as following:
1. Tree Protection Zone
  2. This fence has been installed to prevent damage to the trees and their growing environment contained within, to allow those trees to be retained as components of the existing landscape for incorporation into the landscape works for this site. It is the intent of this tree management process to retain these trees in a condition that is safe, viable and healthy,



or a condition not less than that at the time of the commencement of this development

3. Due to the critical nature of the Tree Protection Zone with regards to the long term viability of the tree/s, if encroachment or incursion into this zone is deemed to be essential the consulting Arborist should be informed to the undertaking of such works
  4. Name, address, and contact details of the developer.
101. In the event of prolonged dry periods, or where a tree has been transplanted, or where excavation nearby, especially up slope, leads to the drying out of soil profiles closest to the tree/s, the tree/s is to be deep watered thoroughly at least twice a week. In the event of disrupted ground or surface water flows to the tree due to excavation, filling, or construction, an irrigation system is to be installed, consideration must be given to volume, frequency and drainage of water delivered, and this is to be in consultation with a qualified consulting Arborist.
  102. Where tree protection measures are to be removed or altered this must be undertaken in consultation with the consultant Arborist to ensure tree protection is maintained.
  103. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
  104. Prior to the commencement of any works on site the applicant shall submit to **Council** a full dilapidation report on the visible (**including photos**) and structural condition of the following public infrastructure:
    - a) Full road pavement width, including kerb and gutter, of Culworth Avenue over the site frontage.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and in written format) *existing* damaged areas on the aforementioned infrastructure so that:

- Council is fully informed when assessing any damage to public infrastructure caused as a result of the development, and
- Council is able to refund infrastructure damage bonds, in full or parts thereof, with accuracy.

The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this respect, the infrastructure damage bond lodged by the subject developer may be used by Council to repair the damage regardless.

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

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

**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 designed by a person licensed to do so (minimum RTA ‘red card’ qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

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

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

In addition, the plan must address:

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

- Minimising construction related traffic movements during school peak periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

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

106. 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.

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

107. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the E P & A Act regulations.
108. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
109. On completion of the landscape works/tree planting or screen planting, the Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal

Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.

110. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications is to be compiled in report format and submitted to the Principal Certifying Authority for approval.
111. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
  - a) Completion of the new driveway crossing in accordance with levels and specifications issued by Council.
  - b) Restoration of footpath along the site frontage where required, in accordance with Council's standard detail.
  - c) Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
  - d) Full repair and resealing of any road surface damaged during construction.
  - e) Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

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

112. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
113. Prior to issue of an Occupation Certificate a suitably qualified consulting civil/hydraulic engineer is to provide engineering certification for approval by the Principal Certifying Authority (PCA). The certification is to make **specific reference** to each of the following aspects of the installed drainage and stormwater management measures:
  - a) That construction of the stormwater drainage and management systems has been carried out by a contractor licensed to do so.
  - b) That all necessary Sydney Water approvals have been obtained for the domestic use of reticulated water.
  - c) That the as-built retention systems achieve the design storage volumes approved by the Principal Certifying Authority with the Construction Certificate (engineer must complete the form in the appendices of DCP47 in relation to the system).
  - d) The as-built drainage layout (including pits, pipes and ancillary plumbing) is in accordance with the relevant stormwater management and drainage

- plans approved by the Principal Certifying Authority with the Construction Certificate,
  - e) The overall as built drainage and stormwater management systems will achieve the discharge control intent of the approved construction plans and Councils Water Management DCP47.
  - f) The pipe within the drainage easement through Selkirk P ark has been constructed in accordance with the approved plans.
114. Prior to issue of an Occupation Certificate the applicant shall submit a Works-as-Executed (WAE) drawing(s) to the Principal Certifying Authority in relation to the installed stormwater drainage and managements systems. These plans shall show:
- a) As built location and indicative internal dimensions of the retention structures on the property (plan view) and horizontal distances to nearest adjacent boundaries and buildings on site
  - b) As built locations of all access pits and grates in the retention systems, including dimensions.
  - c) The achieved capacity of the retention storages and derivative calculations.
  - d) Top water levels of storage areas and indicative RL' s through the escape flow path in the event of blockage of system.
  - e) Size, depth and location of the overland flow path inlet pits, together with surface levels, invert levels and indicative grading levels in surrounding landscaped area.
  - f) Location and dimensions of overland flow conveyance culverts through the basement structure.
  - g) As built surface and invert levels for all drainage pits and junction points.
  - h) Gradients of drainage lines, materials and sizes.
  - i) As built level(s) at the approved point of discharge to the public drainage system.

The WAE(s) is to be prepared by a **registered surveyor** and shall show all critical constructed levels, materials and dimensions in comparison to those shown in the relevant designs approved by the Principal Certifying Authority with the Construction Certificate. All relevant details indicated must be denoted **in red** on the Principal Certifying Authority stamped construction certificate stormwater drawings. The plan shall not be prepared until final surfaces (such as landscaping) are laid.

115. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
- A copy of the approved Construction Certificate stormwater drainage plans which show the retention systems.
  - A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management,
  - A copy of the Works as Executed plan of the pipe within the interallotment drainage easement through Selkirk Park,
  - All Engineer's certification s specified in this consent.

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

116. Prior to occupation or issue of an Occupation Certificate the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater retention 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 facilities - to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate. It is assumed that the legal instruments will transfer to any future subdivision plan at the time of registration.
117. Prior to issue of the Occupation Certificate an easement for waste collection must be provided. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection. It is assumed that the legal instruments will transfer to any future subdivision plan at the time of registration.
118. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include full dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that:
  - a) Vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 "Off-Street car parking" and
  - b) No security doors, grilles or gates are provided which would prevent access to the garbage storage area by Councils waste collection vehicle, including the truck manoeuvring area for forward egress.
119. Prior to issue of the Occupation Certificate the provision of separate underground electricity, gas, phone cable, sewer and water services shall be provided for the development in accordance with those utility providers. A suitably qualified and experienced engineer or surveyor is to provide certification to the Principal Certifying Authority that the development has ready underground access to the services of electricity, gas, phone cable, sewer and water. Alternatively a final compliance letter from the respective supply authorities may be supplied for approval.

## BUILDING CONDITIONS

120. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
  - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
  - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
  - d. Retaining walls and associated drainage.
  - e. Wet area waterproofing details complying with the Building Code of Australia.
  - f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Air-conditioning.
  - g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
  - h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
121. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
  - b. Smoke alarms which:
    - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
    - ii. are connected to the mains and have a standby power supply; and
    - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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

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

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

Where a monolithic slab is used as part of a termite barrier system, the slab shall be constructed in accordance with Australian Standard 2870.1 or as designed by

a structural engineer but in either case shall be vibrated to achieve maximum compaction.

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

123. The bedroom windows along at levels 2, 3 and 4 along the western half of the southern elevation to Block B are to be of fixed obscure glazing, to a height of 1.6 metres above floor level and openable above that height.
124. The proposed timber paling fence along the southern (side) boundary to No 16A Stanhope Road is to be replaced with a 2 metres high rendered brick wall.

*For the Resolution:            The Mayor, Councillor A Ryan, Councillors Andrew, Bennett, Cross, Ebbeck, Hall, Innes & Lane*

*Against the Resolution:    Councillors Malicki & Shelley*

347      **49 to 51 Billyard Avenue, Wahroonga**

File: P34936

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

**I Glendinning**

For Council to consider the inclusion of 49 to 51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance.

**Resolved:**

(Moved: Councillors Ebbeck/Bennett)

- A. That Council prepare a draft Heritage Local Environmental Plan to include the property at 49 to 51 Billyard Avenue, Wahroonga in Schedule 7 (Heritage items) of the Ku-ring-gai Planning Scheme Ordinance.
- B. That Council notify the Department of Infrastructure, Planning and Natural Resources of its intension to prepare a draft amending Local Environmental Plan and draft Heritage Local Environmental Plan in accordance with Section 54 of the Environmental Planning & Assessment Act (EP&A Act) 1979 and notify relevant authorities in accordance with Section 62 of the EP&A Act 1979.
- C. That Council notify the owner 49 to 51 Billyard Avenue, Wahroonga and all affected properties of its relevant decision.
- D. That the draft Heritage Local Environmental Plan be placed on exhibition in accordance with the requirements of the EP&A Act 1979 and Regulations.



- E. That a report be brought back to Council at the end of the exhibition period.

**CARRIED UNANIMOUSLY**

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

(Moved: Councillors Cross/Hall)

That the matter be deferred to clarify issues that have been raised.

348

**Amendment to Development Control Plan No 55 - Nominated Area  
Provisions for Lindfield & Turramurra**

File: S03730

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

**M Riley**

**The Mayor, Councillor Ryan vacated the Chair  
and the Deputy Mayor, Councillor Ebbeck assumed the Chair  
during discussion**

To report to Council on the public exhibition and consultation of Draft Amendments to Development Control Plan No 55 (DCP55) relating to nominated area provisions for Lindfield and Turramurra and to present a final amendment to Council for consideration for adoption.

**The Mayor, Councillor Ryan resumed the Chair**

**Councillor Cross departed during discussion**

*A Motion, moved by Councillors Malicki & Shelley  
that the matter be dealt with in seriatim,  
was CARRIED UNANIMOUSLY*

**Resolved:**

(Moved: Councillors Hall/Bennett)

- A. That the matter be deferred to a Planning Committee at the earliest possible date.

**CARRIED UNANIMOUSLY**

(Moved: Councillors Malicki/Andrew)

- B. 1. That the matter be deferred to a Planning Committee at the earliest possible date.

2. That in the light of recent events connected with the listing of BGHF as a critically endangered association, Council appoint an environmental consultant and if necessary an arborist who is expert in BGHF to work out controls to ensure the long term sustainability of the association on this site and to outline appropriate means of regenerating the BGHF on this land. That new site specific controls be prepared and brought to Council on order that they can be advertised and DCP 55 amended in the future. This is in order to maintain the viability of the BGHF on the site in order to keep connectivity and species diversity within the Council area.

**CARRIED UNANIMOUSLY**

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

(Moved: Councillors Shelley/Innes)

- A. That Council adopt the Nominated Area Controls for the Milray Street Precinct, Lindfield as contained in Attachment A as an amendment “Ku-ring-gai Multi-Unit Housing Development Control Plan No 55”.

That the following changes be made to Attachment A

**1. Site location and site analysis**

A 4<sup>th</sup> dot point be added as follows:

“significant Turpentine Ironbark Margin Forest (TIMF) trees; (TIMF has been recognised as critically endangered in the report, NPWS Native Vegetation of the Cumberland Plain, 2002).”

**2. Design objectives**

That the following addition be included:

“0-11 Management of a Turpentine Ironbark Margin Forest precinct within the area designated in the figure below.”

**Council adjourned for a short interval at 10.25pm  
after a Motion moved by Councillors Bennett & Ebbeck was CARRIED  
and the Chairperson ruled accordingly.  
The Meeting resumed at 10.35pm**

Those present were:

The Mayor, Councillor Ryan  
Councillor Andrew  
Councillor Malicki  
Councillor Hall  
Councillor Ebbeck  
Councillor Innes AM  
Councillor Shelley  
Councillor Lane

*Standing Orders were suspended to deal with  
NM.1 - 8 to 12 Nola Road, Roseville after a*

*Motion moved by Councillors Innes & Shelley*

*For the Resolution: The Mayor, Councillor A Ryan, Councillors Andrew, Ebbeck, Innes, Lane, Malicki & Shelley*

*Against the Resolution: Councillor Hall*

**Councillor Bennett returned**

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

349 **8 to 12 Nola Road, Roseville**

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File: DA1333/04

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

**D Grosvenor  
B Narula  
P Layton  
B Kricker  
L Hunt**

**Notice of Rescission from Councillors L Bennett, E Malicki & M Shelley dated 9 August 2005.**

We move -

"That the decision to approve 8 to 12 Nola Road, Roseville is hereby rescinded".

**Resolved:**

(Moved: Councillors Shelley/Innes)

A. That the above Notice of Rescission as printed be adopted.

*For the Resolution: The Mayor, Councillor A Ryan, Councillors Andrew, Bennett, Ebbeck, Hall, Innes, Malicki & Shelley*

*Against the Resolution: Councillor Lane*

(Moved: Councillors Ebbeck/Innes)

B. THAT Council, as the consent authority, refuse consent to Development Application No. DA 1388/04 for the demolition of existing structures on site and construction of a residential flat building on land at No. 8-12 Nola Road, Roseville for the following reasons:

## 1. Character of the area

The proposed residential flat building is inconsistent with the desired future character of the Nola Road precinct.

Given the likely impacts of the development on the natural and built environments and the social and economic impacts in the immediate locality, the proposed development does not fulfil the requirements of either the Environmental Planning & Assessment Act 1979 (as amended) nor the principles established in DCP 55.

*Particulars:*

- (i) *Section 79C(1)(b) likely impacts on the natural and built environments, and social and economic impacts in the locality.*
- (ii) *Section 79C(1)(c) suitability of the site.*
- (iii) *Part 7.1.2 Desired future character and design objectives for development in the Nola Road precinct (objectives 1-8).*

## 2. Streetscape

The bulk and scale of the development in association with the reduced front setbacks and restricted street width result in a development that dominates the street context and is out of character with the Nola Road precinct.

*Particulars:*

- (i) *Section 79C(1)(b) – Likely impacts of the development.*
- (ii) *The development is non-compliant with Part 4.3(C-8) of DCP 55, in that the front setback to Nola Road is 9.5m at the basement level, in lieu of the required control of 10-12 metres.*
- (iii) *The development fails to satisfy the built form design objectives as outlined in Part 7.1.4 of DCP 55 as they relate to the Nola Road precinct (objectives 1-6).*
- (iv) *The development is non-compliant with Part 4.4(C-1) of DCP 55, in that the north-west and south-east elevations contain a wall plane of 96m<sup>2</sup> in lieu of the 81m<sup>2</sup> (max) wall plane area control.*
- (v) *The development fails to satisfy the building articulation design controls as outlined in Part 7.1.5 of DCP 55 as they relate to the Nola Road precinct (objectives 1-6).*
- (vi) *The Development does not respond to the steep topography of the site. The development application should respond to the design controls.*

- (vii) *The development is not of a design that steps down the site with the topography. The stepping should be three dimensional so that the building does not read as a series of layers.*
- (viii) *The building is not suitably articulated so as to be compatible with the surrounding area in particular where the apartments are set in a garden environment, characteristic of Ku-ring-gai. The development plans should address design controls C-2, C-4 and C-6 especially with reference to the neighbouring development.*

### **3. Blue Gum Creek**

The development has adverse impact on the proposed rehabilitation of Blue Gum Creek and its tributary, locally known as Little Blue Gum Creek, and the revegetation zone established in DCP55 for the locality.

*Particulars:*

- (i) *Part 7.1.6 Blue Gum Creek Design Objectives (C1-C2)*

### **4. Residential Amenity**

The development has an unsatisfactory privacy impact upon the neighbouring dwellings. Further, there is a conflict between addressing the unsatisfactory privacy impact and the solar access of the neighbouring town houses.

*Particulars:*

- (i) *The development is non-compliant with Part 4.5.2 of DCP 55, in that the visual separation between the subject development and the neighbouring dwellings at 5 Corona and 6 Nola Road is less than the required 12m and 18m separation as required by the DCP at Levels 1-4 & 5, respectively, details of the non-compliance are as follows:*
  - 10m to Town House 3 at 5 Corona Road (Levels 1-4)*
  - 15m to Town House 3 at 5 Corona Road (Level 5)*
  - 8m to 6 Nola Road (Levels 1-4)*
  - 10m to 6 Nola Road (Level 5)*
- (ii) *Proposed solar access for the adjoining two-storey townhouses on the south-eastern boundary is limited to 2.5 hours between 9am and 3pm at the winter solstice.*
- (iii) *Insufficient screen planting between the subject development and the surrounding residential properties.*

### **5. Energy efficiency**

The development fails to provide adequate energy efficiency levels which will result in unsatisfactory amenity for the occupants of the development.

*Particulars:*

- (i) *The development is non-compliant with Part 4.8.1 (C-4) of DCP 55, in that the development proposes a 4-5 star rating for 85% of the units in lieu of the required 90% (min) control as prescribed by the DCP.*

## **6. Solar Access**

The development results in unsatisfactory overshadowing of the townhouses at No. 5 Corona Rd.

7. The development is unsatisfactory in regard of SEPP 65.

*For the Resolution: Councillors Bennett, Ebbeck, Innes, Lane, Malicki & Shelley*

*Against the Resolution: The Mayor, Councillor A Ryan, Councillors Andrew & Hall*

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

(Moved: Councillors Shelley/Innes)

That the application be deferred so that the applicants may lodge new plans that deal with a range of issues in relation to the DCP controls and the solar access issues of the neighbouring townhouses.

Specifically, these are to relate to the desired future character and design objectives of the area as outlined in DCP 55 with particular reference to:

- O-1 A landscape setting dominated by the form of the tall Blue Gum forest
- O-2 Residential flat buildings are integrated as being part of the landscape, being subordinate to it
- O-4 A cohesive and consistent style and form to the streetscape within the zone specified.
- O-5 Development in the proximity of Blue Gum Creek provides sufficient setback, appropriate vegetation and providing direction on the relationship to buildings within the area.
- O-6 lot sizes provide adequate space to retain the existing mature landscape as a continuation of the indigenous Blue Gum forest between the new buildings. This will allow for significant canopy growth and appropriate understorey vegetation to support the Blue Gum forest habitat.
- O-7 Development designed to respond to the steep topography. Further, the application should respond to the design controls specifically.
- C-2 Development that is located surrounding Nola Road and Blue Gum Creek shall be designed to all of respond to the landscape setting and result (in) buildings that read as pavilions within the landscape.

C-4 Buildings are to step down the site with the topography. The stepping should be three dimensional so that the building does not read as a series of layers.

C-5 A narrow building design should be used to provide good penetration of daylight and natural ventilation. The high tree canopy will restrict the daylight access more than in a typical apartment building.

7.1.5 Building articulation Developments within the area are highly articulated buildings where the apartments are set in a garden environment, characteristic of Ku-ring-gai and the plans should address design controls C-2, C-4 and C-6 especially with reference to the neighbouring development.

*At 11.50pm a Motion moved by Councillors Innes & Shelley  
to extend the Meeting until business is completed was put to the vote*

*For the Resolution: The Mayor, Councillor A Ryan, Councillors Andrew, Bennett, Ebbeck, Innes, Lane, Malicki & Shelley*

*Against the Resolution: Councillor Hall*

## **GENERAL BUSINESS (cont)**

350

### **Analysis of Land & Environment Court Costs 2004/2005**

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 2005.

#### **Resolved:**

(Moved: Councillors Hall/Ebbeck)

- A. This Council note with concern the court appeal costs for 2004/2005 and requests the General Manager address these costs and report back to Council no later than October 2005 on what actions in respect to SEPP 53 Council may take to ameliorate these costs.
- B. That the Mayor write to the SMH seeking a correction to its article "Environment court finds a legacy everybody likes" on page 10 of the SMH August 20, 2005.

**CARRIED UNANIMOUSLY**

**The Mayor, Councillor Ryan vacated the Chair**

and the Deputy Mayor, Councillor Ebbeck assumed the Chair

351     **2004/2005 Budget Review 4th Quarter Ended June 2005**

.  
File: S03096

To present to Council the quarterly financial review for the year ended 30 June 2005.

**Resolved:**

(Moved: Councillors Malicki/Innes)

That Council receive and note the contents of the report.

**CARRIED UNANIMOUSLY**

**Councillor Hall departed**

352     **Outdoor Dining & Footpath Trading Policy**

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File: S03004

To present the Outdoor Dining and Footpath Trading Policy to Council for adoption.

**Resolved:**

(Moved: Councillors Innes/Shelley)

- A. That Council adopt the *Outdoor Dining and Footpath Trading Policy* as amended under Section 68 of the *Local Government Act* as a Local Approvals Policy.

Amendments are as follows:

- 3.1(iii) Delete "only" and insert "either".  
At the end of the clause insert "or appropriate receptacles for the collection of disposable eating utensils are provided."
- 3.2(ii) Delete "2m" and insert "1.8m".
- 3.4(iii) Delete "and plastic".
- 3.9(ii) Insert at the beginning of the clause after the word "must", "maintain a minimum unobstructed footpath width of 1.8 metres at all times between the outdoor dining area and the building."



4.1(iii) Delete "2 metres" and insert "1.8 metres from the building".

4.1(iv) Delete "(whether against the building or the kerb)"

4.1(vi) Delete the clause, and re-number accordingly.

- B. That the relevant Chambers of Commerce and current permit holders be notified of Council's decision.
- C. That Council review *Development Control Plan No 28 – Advertising Signs* to ensure consistency with *Outdoor Dining and Footpath Trading Policy*.
- D. That a report be brought back to Council on the proposed amendment to *Development Control Plan No 28 – Advertising Signs*.

*For the Resolution: Councillors Andrew, Innes, Lane & Shelley*

*Against the Resolution: Councillors Bennett, Ebbeck & Malicki*

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

(Moved: Councillors Malicki/Bennett)

That the matter be deferred to the next Planning Committee meeting.

**The Mayor, Councillor Ryan assumed the Chair**

353 **2004 to 2008 Management Plan, 4th Quarter Review for the Year ended  
30 June 2005**

File: S03096

To report to Council the year end status of Key Performance Indicators as contained in Council's 2004 to 2008 Management Plan and resolutions of Council not implemented during the 2004/05 financial year.

**Resolved:**

(Moved: Councillors Malicki/Innes)

That the 2004 to 2008 Management Plan status report be received and noted.

*For the Resolution: The Mayor, Councillor A Ryan, Councillors Andrew, Ebbeck, Innes, Lane, Malicki & Shelley*

*Against the Resolution: Councillor Bennett*

## **Local Government Association Conference 2005**

File: S04415

For Council to determine its delegates to the 2005 Local Government Association of NSW Annual Conference.

### **Resolved:**

(Moved: Councillors Lane/Malicki)

- A. That those Councillors, interested in attending the Conference, advise the General Manager within 7 days with the first Councillor nominating from each Ward being a voting delegate should there be more than 5 Councillors wishing to attend.
- B. That the General Manager accompany the elected representatives to the Conference.

**CARRIED UNANIMOUSLY**

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

## **Land & Environment Court Class 1 Appeal Outcomes**

File: S03398

### **Notice of Motion from Councillor T Hall dated 28 July 2005.**

I move:

"That where judgments of Class 1 Appeals handed down in the Land & Environment Court include a criticism, requirement or suggestion by the Court's Commissioner for the Council to review its policies/development control plans that he/she consider faulty as a result of the outcome of individual Class 1 appeals, these matters be reported with an appropriate staff recommendation to Council for review as to implementation, as soon as possible after the handing down of the relevant judgment.

I refer particularly to the Court's criticisms of Council's bonding conditions of landscaping/preservation of trees (see Appeals No.11333 of 2004 and No.10238/2005), the DCP condition for the rejection of Childcare Centres sited within 100m of sub-arterial roads (see Appeal no.10072 of 2005) and restrictions as to user on title, (Appeal No.11333 of 2005)".

Note. This list is not complete.

### **Resolved:**

(Moved: Councillors Ebbeck/Malicki)

That the matter be deferred until the next meeting of Council.

*For the Resolution: Councillors Andrew, Bennett, Innes, Lane & Malicki*

*Against the Resolution: The Mayor, Councillor A Ryan, Councillors Ebbeck & Shelley*

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

(Moved: Councillors Lane/Shelley)

That the above Notice of Motion as printed be adopted.

356 **Turramurra Town Centre Consultation**

File: S04021

**Notice of Motion from Councillor E Malicki dated 15 August 2005.**

I move:

"That an additional meeting be scheduled if there are sufficient people who are unable to be accommodated at the initial consultation meeting."

**Resolved:**

(Moved: Councillors Malicki/Andrew)

That the above Notice of Motion as amended be adopted.

**CARRIED UNANIMOUSLY**

**QUESTIONS WITHOUT NOTICE**

357 **Interface Study**

File: S04019

Question Without Notice from Councillor M Lane

In relation to the Interface Study between 2(d)3 and similar dwelling zones, are there additional sites that have had submissions made which do not comply with the original Council Resolution and Consultant's Brief?

Further could Councillors be provided with a Summary List of these sites and report for consideration at the next Planning Committee meeting?

**Answer by the Director Open Space**

Yes, we will provide that information to Councillors and list it as an agenda item for the next Planning Committee meeting.

358

**RFS Reply on Hatched Areas**

File: S02542

Question Without Notice from Councillor E Malicki

Have any steps been taken to deal with the recommendation by the Rural Fire Service (RFS) not to include several areas recommended by Council staff into the hatched areas for development purposes?

**Answer by the Director Open Space**

No further action from staff. We have chased up with DIPNR on a number of occasions and there has been no answer from them.

359

**Interviews over Tree Preservation Order Issue**

File: DA0265/05

Question Without Notice from Councillor E Malicki

Two additional weeks have progressed since the Council resolution giving instructions that interviews be conducted of those people present at the site inspection at 1580 to 1596 Pacific Highway, Wahroonga. From my contact with residents and from my own experience as Chair of that meeting, absolutely no effort has been made to obtain evidence on this aspect of the tree removals.

When are we going to commence seeking evidence on this matter, please?

**Answer by the Mayor**

I think the answer to that is it does take a while. It is not a quick process.

**Answer by the Director Development and Regulation**

As I said at the last meeting, the whole process does take quite a degree of time compared to other proceedings because they are so fundamentally complex but I will take the matter up with our Solicitors and our in-house Solicitor, to make sure that it has progressed, if it has not progressed further.

## Interface Report

File: S04019

Question Without Notice from Councillor L Bennett

When will the interface report come to Council?

### Answer by the Director Open Space

At this stage we indicate the 20 September is when that report is likely to come to Council but we will be discussing it at the next Planning Committee meeting.

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

## Confidential Selection of Consultant

File: S03655

Mayoral Minute by the Mayor, Councillor A Ryan dated 23 August 2005

### Resolved:

- A. That Council appoints David Taubman of Employment Solutions to carry out the General Manager's performance review for 2004-2005, as set out in the report.
- B. That Council determine the date on which this process is to take place.

**CARRIED UNANIMOUSLY**

*The Meeting closed at 1.12am*

The Minutes of the Ordinary Meeting of Council held on 23 August 2005 (Pages 1 - 53) were confirmed as a full and accurate record of proceedings on 6 September 2005.

\_\_\_\_\_  
General Manager

\_\_\_\_\_  
Mayor / Chairperson