

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 24 AUGUST 2004

- 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)
Councillor M Lane (Gordon Ward)
Councillor M Shelley (Roseville Ward)
- Staff Present:** General Manager (Brian Bell)
Director Environment & Regulatory Services (Michael Miocic)
Manager Development Assessment Services (Matthew Prendergast)
Director Planning (Leta Webb)
Manager Strategic Planning (Antony Fabbro)
Director Technical Services (Greg Piconi)
Director Open Space (Steven Head)
Director Community Services (Janice Bevan)
Director Finance & Business (John McKee)
Manager Revenue Accounting (David Lethbridge)
Office Co-ordinator/WP (Casey Locke)

The Meeting commenced at 7.03pm

The Mayor offered the Prayer

PERSONAL EXPLANATION BY THE MAYOR

As you would all be aware, there has been a great deal of controversy today in relation to a speech I gave at Turramurra High School last Tuesday. I would like to take this opportunity to put on record to the Principal, staff, students and parents of the School and indeed to those present this evening, that I give my sincere and utmost apology for any embarrassment or offence caused.

That was certainly not my intention. I conveyed this message to the Principal, Mr McMartin, last Friday and again today and I have sent him a written apology this afternoon.

In light of the reaction witnessed today, I fully accept that I made a grave error of judgement and you have my assurance that this will not happen again.

APOLOGIES

NOTE: Councillor G Innes AM had previously been granted leave of absence from this Council meeting (see Minute No 382).

DECLARATION OF PECUNIARY INTEREST

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

No such interest was declared.

401

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499

Resolved:

(Moved: Councillors Lane/Shelley)

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

- C.1 **Tender - Recycling Materials**
(Section 10A(2)(c) - Information that would confer a commercial advantage)

CARRIED UNANIMOUSLY

DOCUMENTS CIRCULATED TO COUNCILLORS

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

- Refers GB.2: Rezoning of B2 Road Reservation, Wahroonga to South Turramurra – Memorandum from Manager Strategic Planning dated 19 August 2004
- Refers GB.12: Re-exhibition of Draft LEP 200 – Consideration of Submissions – Memoranda from Director Planning dated 24 August 2004
- Refers GB.19: UTS Site, Lindfield – Heritage Significance Assessment – Memorandum from Director Planning dated 24 August 2004

Refers GB.20: 2&4 Eton Road and 205 Pacific Highway, Lindfield – Memorandum from Director Environment & Regulatory Services dated 8 August 2004

CONFIRMATION OF MINUTES

402 **Minutes Of Ordinary Meeting Of Council**

File: S02131

Meeting held 10 August 2004

Minutes numbered 382 to 400

Resolved:

(Moved: Councillors Shelley/Cross)

That Minutes numbered 382 to 400 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting, with the exception of an amendment to the front page of the Minutes.

(Moved: Councillors Ebbeck/Cross)

That the front page of the Minutes be amended to read as follows:

The Deputy Mayor offered the Prayer

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR

403 **VALE Ivor Forsyth Wyatt OBE**

File: S02791

It was with sadness that we learned of the passing of Ivor Forsyth Wyatt OBE on Sunday 1 August 2004 at the age of 88.

Born in Sydney on 26 October 1915, Ivor Wyatt was a resident of Ku-ring-gai since 1926. He enlisted in the Australian Army on 3 April 1941 and was discharged in November 1944 at the Rank of Staff Sergeant with the 16th ATT Battalion. At the conclusion of his war service, Ivor became involved in the St Ives-Pymble Community Centre Fund Committee which recommended that Council acquire the 8.6ha (20 acre) site known today as the St Ives Village Green – a living tribute to the foresight of earlier St Ives residents.

Ivor Wyatt's interest in the Village Green resulted in his representing the St Ives Progress Association on the 1993-formed, St Ives Village Green Advisory Committee. He was a proud St Ives resident, and was known to the local community as "Mr St Ives".

Mr Wyatt was an active member of the National Trust since 1947. Ivor was Hon. Secretary from 1952 to 1969 when he was elected President, stepping down from that office in 1973 to become Vice-President until 1976. In all, he worked for 51 years in an honorary capacity for the National Trust and was appointed an Honorary Life Member of the Trust in 1959, continuing to serve on Trust committees until 2003.

Ivor Wyatt wrote "Ours in Trust": a personal history of the National Trust of Australia (NSW), which was published in November 1987.

Ivor's name first appeared in the minutes of the St Ives Progress Association in 1948, serving as President from 1950 to 1954, and again in 1976 and from 1985 to 1990. He also served as Hon. Treasurer from 1965 to 1990.

In all of these years, Ku-ring-gai was not the only beneficiary of such community spirit. Ivor was honoured by the State Pollution Control Commission for the 17 years in which he represented the environmental interests of New South Wales. In 1977 he was awarded an OBE from the Commonwealth for his contribution to conservation and environmental work. Ivor was recognized with Life Membership of the Nature Conservation Council of NSW.

On Australia Day 1998, Ivor Wyatt, at the age of 82, was further honoured, being jointly named with Killara resident George Broadbent, as Citizen of the Year. Later in the same year, in recognition of Ivor Wyatt's contribution to the Ku-ring-gai community, Council dedicated to him and named in his honour, a piece of land located at the corner of Link and Mona Vale Roads, St Ives, "The Ivor Wyatt Reserve".

These were just a few of Ivor Wyatt's achievements.

Ivor Forsyth Wyatt OBE was a very proud Australian and is survived by his wife of 50 years, Mabel Wyatt, his sister, Mrs Lynette Lee and his son Clinton Wyatt.

Resolved:

- A. That Council acknowledge the contribution to the Ku-ring-gai community and the community at large, made by Ivor Wyatt OBE; and
- B. That Council pass on to Mr Wyatt's family its sincere condolences together with a copy of this Mayoral Minute.

CARRIED UNANIMOUSLY

PETITIONS

404

Petition to Request More Bike Tracks in St Ives - Thirty-Two [32] Signatures

File: S02025

Letter from Jasper Ludewig:

I am a 13 year old bike rider who is extremely enthusiastic about my hobby. This passion is also if not more reflected by the surrounding riders which dominate the Sydney riding community. To give you an idea of the extent to which bike riding rises, here is a list of all the extremely successful riders located around St Ives.

Justin Havukainen: The highest ranked American rider who is currently working with the local bike shop.

Mick Ross: The foundation of bike riding in St Ives, an extremely nice and talented rider who is now sponsored for the 2004 race season and of course the funniest guy in St Ives.

Hugh Mansfield: St Ives Cycles employee, placed 3rd at Mount Beauty in the Nationals and was also crowned "King of the Hill" in last year's Inter Schools competition.

Niki Gudex: One of Australia's fastest bike riders, who is to try out for the upcoming Olympic Games.

These are only a few of the talented and extremely successful riders who are located around the St Ives area. On a wider scale, Australia has now the fastest man to date, who has recently taken out the most prestigious title one can achieve, The World Cup. This honour was hardly worked for and Nathan Rennie (World Cup Champion) could not have done with without practice, hence the saying 'practice makes perfect'.

I think the bike riding community around the St Ives area deserves better. Warrimoo, our most popular trail in St Ives has recently been flattened and West Pymble's jumps and obstacles have also been demolished. In the North Shore Times I saw an article saying 'Pymble bike riders please refrain from riding near the ovals, we will facilitate your needs'. I still have not seen any change. If you take the time to look at the attitude of riders you will definitely find that we are easygoing, polite to walkers, courteous and we do not start arguments or disputes. We are all out there to win the 'lolly' and consequently we need the facilities to practise.

Just like soccer players have soccer fields, golfers have golf courses, skaters have the bowl and tennis players have tennis courts, bike riders should have bike parks, as bike riding is an extremely recognised sport. Just take a look at Farkin.net, mtba.asn.au, 26inches.com.au. These sites are only a tiny minority of the endless sites that are out there. A local newsagent will most probably have 2 or more bike riding magazines in stock.

Other than hanging around shopping centres and getting up to no good we go riding, with mates, we are in touch with the bush and are environmentally friendly as we do not want our bush to deteriorate, otherwise we cannot ride any more. We are not asking for a city block to be ripped down or for the world to be stopped, we are asking for a simple space which, with your help, we can turn into an appropriate and sufficiently facilitated bike park. This will abolish the ongoing demolition and rebuilds of both sides of the argument, your demolition our rebuilds. Let's not play stalemate, let's work together to achieve a victory to please us both.

Attached are a few signatures of the parents and riders who support this idea and think words should be put into actions.

Resolved:

(Moved: Councillors Hall/Lane)

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

CARRIED UNANIMOUSLY

405 **10 Gibran Place, St Ives – Bushfire Hazard on Vacant Land – (Fourteen [14] Signatures)**

File: P43800

The following Petition was presented by Councillor Hall:

"The residents affected by 10 Gibran Place, St Ives, wish to petition to have Council act to have the vacant land situated at 10 Gibran Place ("**The Property**") maintained in a manner such as to remove the potential fire hazard, noxious weed infestation to adjoining properties, and to prevent injury to residents that use the common walkway adjacent to **The Property**."

Resolved:

(Moved: Councillors Hall/Bennett)

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

CARRIED UNANIMOUSLY

406 **Kissing Point Village Green, Vernon Street, South Turramurra - Request for Works (Fifty-Nine [59] Signatures)**

File: S03670

We the undersigned users of the off-leash dog exercise area of the Kissing Point Village Green Vernon Street, South Turramurra, known collectively as the Kissing Point Companion Animal Social Group wish to express our thanks for the fencing, rubbish bins, seating, drinking fountain and shade trees already provided by Council primarily at your instigation. As you are aware the area is extremely popular with dog owners and others with an interest in dogs, some of whom travel a considerable distance to take advantage of the amenities.

This group has made considerable efforts on its own behalf to encourage dog owners to use the facilities responsibly by putting up signs encouraging people to pick up their dog droppings, and providing a dispenser and plastic bags for this purpose. In addition we verbally “remind” owners of their responsibilities for this and for control of any antisocial behaviour displayed by their dogs. We have provided drinking bowls for the dogs to use at the tap, and place lost balls etc on top of the electrical cabinet where they can be easily found.

Having now used the area for a number of years our experience shows that it could be improved even more by the provision of additional facilities:

1. It would be greatly appreciated if the area could be lit.

In winter many people with full-time jobs are unable to exercise their dogs until after sunset. The area is then in darkness making it hard to supervise dogs and pick up their droppings as required. The darkness also makes some owners, in particular the elderly and single individuals feel insecure.

We believe that strategically installed lighting, positioned to cause no inconvenience to local residents of housing, set to automatically turn on as the natural light deteriorates and switch off after 2 hours or at 7pm (whichever is sooner) would offer a reasonable compromise of greater access to the area without interfering unduly with the lifestyle of local residents.

2. We would value a water tap, bubbler and appropriate drainage installed in the “Speakers Corner”.

In summer this is the most shaded area of the park and most dog owners choose to sit on the seating kindly provided by Council, out of concern for our dog’s welfare buckets of water are carried from the tap on the other side of the park and left in the shaded area for the dogs to drink, we humans collect and carry water in bottles for our own use.

A suitably drained vandal resistant tap and bubbler similar to the one installed at the other side of the park located in the vicinity of “Speakers Corner” would be of great benefit, the group is happy to provide dog drinking containers as we have at the existing tap.

We trust that as the elected representative of this area, you will submit our request to Council in the appropriate manner, and vigorously pursue its timely implementation.

Resolved:

(Moved: Councillors Malicki/Andrew)

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

CARRIED UNANIMOUSLY

GENERAL BUSINESS

*A Motion moved by Councillors Bennett and Hall
to hear all speakers for GB.9 – Heritage Nomination – Request
to Prepare LEP was CARRIED UNANIMOUSLY*

*A further Motion moved by Councillors Malicki and Hall
to hear all speakers for GB.12 – Re-exhibition of Draft LEP 200 –
Consideration of Submissions was CARRIED UNANIMOUSLY*

407 **Heritage Assessment - Camellia Grove Nursery, 238 - 240 Mona Vale Road, St Ives**

File: P52812

S Clark addressed Council

To report to Council on the heritage assessment of Camellia Grove Nursery 238-240 Mona Vale Road, St Ives.

Resolved:

(Moved: Councillors Shelley/Hall)

- A. That consideration of Heritage Assessment - Camellia Grove Nursery 238 - 240 Mona Vale Road, St Ives be deferred pending a site inspection.
- B. That the applicant be requested to have the location of the proposed development pegged out on site for the inspection.

CARRIED UNANIMOUSLY

408 **18C Saiala Road, Killara - Floodlighting of Tennis Courts at Allan Small Park**

File: DA0169/04

Ward: Gordon

Applicant: Ku-ring-gai Council (Open Space Services)

Owner: Ku-ring-gai Council

To determine an application by Council for the floodlighting of tennis courts at Allan Small Park.

Resolved:

(Moved: Councillors Lane/Cross)

- A. That Development Application No 169/04 for the floodlighting of Allan Small Park at 18c Saiala Road, Killara by Council's Parks, Sports and Recreation Section as shown on plan Nos AST CL SK-1, dated February 04, drawn by PLA.KC.AW, be approved for a period of 2 years, subject to the following conditions:

GENERAL CONDITIONS

1. The lighting structures are to designed and erected in accordance with the provisions of the Building Code of Australia.
2. **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.

3. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
4. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
5. The operation of the lighting is to cease at 10pm in order to prevent an illumination nuisance to surrounding residential properties.
6. The lighting is to be designed and installed in accordance with the following Australian Standards in order to reduce the obtrusive effects of lighting.

- a. AS 2569 – “Lighting for Outdoor Tennis Courts”
- b. AS4282 – “Control of the Obtrusive Effects of Lighting”.

CONDITIONS TO BE COMPLIED WITH PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

- 7. 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.

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

CONDITIONS TO BE COMPLIED WITH PRIOR TO COMMENCEMENT OF WORK

- 9. 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.

BUILDING CONDITIONS

- 10. 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.
- 11. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:

- a. Any pier holes and/or foundation material.
- b. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
- c. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
- d. The completed structure prior to occupation.

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

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

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

CARRIED UNANIMOUSLY

409 **2003 to 2007 Management Plan, 4th Quarter Review for the year ended 30 June 2004**

File: S02394

To report to Council the year end status of Key Performance Indicators as contained in Council's 2003 to 2007 Management Plan.

Resolved:

(Moved: Councillors Lane/Ebbeck)

That the 2003 to 2007 Management Plan status report be received and noted.

For the Resolution: *The Mayor, Councillor A Ryan, Councillors Cross, Ebbeck, Hall, Lane, Malicki and Shelley*

Against the Resolution: *Councillors Andrew and Bennett*

410 **Five Year Footpath Program 2004 to 2009**

File: S02627

To seek Council's approval of a Five Year Rolling New Footpath Program and the carry forward works from 2003/04.

Resolved:

(Moved: Councillors Lane/Hall)

That Council adopts the 2004-2005 New Footpath Program and the 2005-2009 program as a draft rolling program.

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

Against the Resolution: Councillor Bennett

411 **RTA Project Nominations for 2005/2006**

File: S2388

To advise the Roads and Traffic Authority (RTA) of Council's project nominations for the financial year 2005/2006 in the RTA program areas.

Resolved:

(Moved: Councillors Lane/Ebbeck)

That Council nominates the list of projects identified in this report for Roads and Traffic Authority Projects in Financial Year 2005/2006.

CARRIED UNANIMOUSLY

412 **NSW Department of Local Government Comparative Data 2002/2003**

File: S02779

To present to Council an analysis of the NSW Department of Local Government Comparative Data Report for 2002/2003.

Resolved:

(Moved: Councillors Lane/Cross)

That Council receive and note the analysis of Department of Local Government 2002/2003 Comparative Data report.

CARRIED UNANIMOUSLY

413 **Draft Financial Statements for the year ended 30 June 2004**

File: S03611

To present to Council the Draft Annual Financial Statements for the year ended 30 June 2004 for certification and referral to Council's external auditors, Spencer Steer.

Resolved:

(Moved: Councillors Lane/Shelley)

- A. That Council receive and certify the Draft Financial Statements for the year ended 30 June 2004.
- B. That the Draft Financial Statements be referred to Council's external auditor, Spencer Steer to provide an opinion on the Draft Financial Statements and to report to Council.
- C. That the Mayor, Councillor Ryan and the Deputy Mayor, Councillor Shelley sign the statement attached to the Annual Financial Statements in accordance with Section 413(2)C of the Local Government Act 1993.
- D. That Tuesday 12 October 2004 be fixed as the date for the public meeting to present the audited Financial Statements and audit reports for year ended 30 June 2004 as required by Section 419 of the Local Government Act 1993 and that Council's external auditors be present to answer questions.

CARRIED UNANIMOUSLY

414 **Ku-ring-gai / Hornsby Council - Changes to Existing Section 88B Instruments**

File: S03518

To advise Council of variations required to be made to Section 88B Instruments relating to certain properties formally within the Ku-ring-gai Local Government area which were transferred to Hornsby in 1997 and vice versa.

Resolved:

(Moved: Councillors Lane/Malicki)

- A. That Council approve the adjustments to folio identifiers 1/870867, 82/849427, 1/SP49372 contained in this report.

- B. That Council authorise the Mayor and the General Manager or their nominees to sign documentation and affix the common seal to properties identified in “A” above.

CARRIED UNANIMOUSLY

415 **Investment Cash Flow & Loan Liability as at 31 July 2004**

File: S02722

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

Resolved:

(Moved: Councillors Lane/Ebbeck)

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

CARRIED UNANIMOUSLY

416 **Kokoda Track Memorial Project**

File: S02092

To advise Council of the progress of the Kokoda Track Memorial project, and to seek Council approval for the construction of a memorial in Kokoda Avenue, Wahroonga.

Resolved:

(Moved: Councillors Ebbeck/Cross)

- A. That Council approve the construction of a memorial on Kokoda Avenue, Wahroonga as per the attached plan, subject to the Kokoda Track Memorial Committee providing sufficient funding for the memorial.
- B. That a formal notification process of affected residents be conducted.

CARRIED UNANIMOUSLY

417 **Open Space Capital Works Program**

File: S03021

To recommend to Council the Open Space Capital Works Program following adoption of Council's Management Plan,

Resolved:

(Moved: Councillors Ebbeck/Hall)

- A. That the projects as outlined in this report form the projects for the 2004/05 Open Space Capital Works Program.
- B. That funds from the Swimming Pool Reserve be used to fund the Swimming Pool Feasibility Study.
- C. That review of the Open Space Capital works prioritisation process be undertaken prior to the development of planning for 2005/06 Capital Works program.
- D. That funds for Council's contribution to development of the St Ives Showground Conservation Plan be identified and reported to Council should the Metropolitan Greenspace Grant Application be successful.

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

Against the Resolution: Councillor Bennett

418 **12 Month Review of Trial - Gordon Golf Club - Additional Tee Access**

File: P05679

To advise Council of the review of the relevant information relating to the future of off peak additional tee access by Gordon Golf Club members.

Resolved:

(Moved: Councillors Lane/Shelley)

- A. That Council the granting for a separate licence for concessional green fees for Golf Club members in off peak course usage during Monday-Friday in line with the existing lease due to expire 23 July 2023.
- B. That the new licence will be ten years with an option of ten years with the concurrence of both parties in line with the existing lease.

- C. That Council issue a public notice as prescribed by Section 47 (A) of the Local Government Act (1993).
- D. That Council authorise the Mayor and General Manager to sign the documentation should no sustainable objections be received following the period of public notice.
- E. That Council authorise the affixing of the Common Seal of Council to the Licence document.
- F. That a report be brought back to Council if there are any sustainable objections received to the proposal in accordance with Section 47 (4-10) of the Local Government Act (1993).

CARRIED UNANIMOUSLY

419 **2003/2004 Budget Review 4th Quarter ended June 2004**

File: 01/0975

To present to Council the quarterly financial review for the year ended 30 June 2004.

Resolved:

(Moved: Councillors Lane/Shelley)

That Council receives and note the contents of this report.

CARRIED UNANIMOUSLY

420 **Status Report on Development Assessment**

File: S02445

To report to Council on the progress made to date in strategies and actions to reduce the DA backlog and to report on the positive reforms implemented within the Development Assessment Section since October 2003.

Resolved:

(Moved: Councillors Shelley/Cross)

That the report of the Director of Environment and Regulatory Services and the General Manager regarding the status of Council's Development Assessment Section be received and noted.

CARRIED UNANIMOUSLY

UTS Site, Lindfield - Heritage Significance Assessment

File: S03621

To have Council consider an independent Heritage Assessment of the UTS Ku-ring-gai Campus.

Resolved:

(Moved: Councillors Shelley/Cross)

- A. That Council prepares a Local Environmental Plan to include the UTS site, Lindfield as a draft heritage item in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.
- B. That due to its assessed State level of heritage significance, nominate the UTS Lindfield site to the NSW Heritage Council for inclusion in the State Heritage Register.
- C. That Council notifies the Department of Infrastructure, Planning and Natural Resources of its intention to prepare a draft Local Environmental Plan in accordance with Section 54 of the EP & A Act and notify relevant authorities in accordance with Section 62 of the EP and A Act.
- D. That Council notifies the University and all affected properties of its decision.
- E. That the Draft Plan be placed on exhibition on accordance with the requirements of the EP & A Act and Regulations.

CARRIED UNANIMOUSLY

2 & 4 Eton Road and 205 Pacific Highway, Lindfield - Demolition of Three Existing Dwellings and Construction of 2x3-Storey Residential Flat Buildings Comprising 21 Units and Connected by a Common Basement Car Park Containing 35 Car Parking Spaces

File: DA328/04

Ward: Roseville

Applicant: Adavale Investments Property Limited

Owner: Adavale Investments Property Limited

Determination of a development application for the demolition of three existing dwellings and construction of 2 x 3 storey residential flat buildings comprising 21 units and connected by a common basement carpark containing 35 car parking spaces.

Resolved:

(Moved: Councillors Shelley/Lane)

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* in respect of the setback standard in clause 50 of the Ku-ring-gai Planning Scheme Ordinance is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.

THAT Development Application No 328/04 for the demolition of three existing dwellings and the construction of two residential flat buildings comprising 21 units with basement car parking for 35 vehicles, at 2 & 4 Eton Road and 205 Pacific Highway, Lindfield, be granted a deferred commencement consent for a period of two (2) years subject to the following conditions:

Deferred Commencement Conditions

SCHEDULE A

1. The applicant shall submit, for approval by Council, full hydraulic design documentation for the required inter allotment drainage system between the subject property and the proposed point of discharge to the public drainage system. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with Council's Water Management DCP 47 (available on Councils website and at Customer Services) and the Plumbing and Drainage Code (AS3500). New pipes within the downstream easement drainage system must be sized to have adequate capacity to carry design flow rates, or detention system overflows (assuming complete blockage) where detention systems are to be provided, from the subject property. The following details must be included:
 - a. Plan view of inter allotment system to scale showing dimensions, location and reduced levels of all pits, grates, pipe inverts, flushing facilities and exact point and method of connection to the Council system located downstream of the rail corridor,
 - b. Full engineering details of any infrastructure works required in the downstream road reserve necessary to facilitate a drainage connection to the existing Council drainage system,
 - c. The contributing catchment calculations and supporting pipe sizing information,
 - d. Longitudinal section showing existing ground levels and proposed pipe invert levels, grades and flow capacities,
 - e. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system,
 - f. Means to preserve the root systems of trees within seven (7) metres of the drainage system.

2. In order to activate this consent the applicant shall submit, for approval by Council, registered title documents demonstrating that the subject site is benefited by the necessary easement(s) or equivalent for stormwater drainage as far as the approved downstream point of discharge to the public drainage system. This information is to include, as a minimum, registered Title documents demonstrating the benefit and burdens, together with the instruments describing the terms of necessary drainage easement (s).
3. In order to activate this consent, the construction of the required inter allotment drainage system must be completed in full and a connection must be made to the downstream public drainage system. The designing engineer or equivalent professional engineer must supervise the works. At the completion of works, and prior to the consent becoming active, the following shall be submitted to Council for approval:
 - a. Certification from the supervising engineer that that the as-constructed works comply with the approved inter allotment design documentation, and
 - b. A full works-as-executed drawing of the as built drainage line (showing pipe dimensions, grades, materials, invert levels) prepared by a registered surveyor, and
 - c. Certification from the surveyor that all drainage structures are wholly contained within the necessary drainage easement(s).

SCHEDULE B

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans labelled as: DA02-Basement Floor Plan, DA03- Site & Ground Floor Plan, DA04-First Floor Plan, DA05-Second Floor Plan, DA06-Roof Plan, DA07-North & West Elevations, DA08-South & East Elevations, DA09-Section A-A & Section B-B prepared by Owen & Gilsenan Architects, dated 28 January 2004 and lodged with Council 2 April 2004.
2. All building works shall comply with the requirements of The Building Code of Australia
3. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
4. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
5. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the

right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

6. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

7. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
8. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
9. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
10. To maintain existing ground levels all excavated material shall be removed from the site.
11. 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.
12. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
 - a. The type and size of machinery proposed.
 - b. The routes of all trucks to convey material to and from the site.
 - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.

13. With regard to the proposed rock breaking the following conditions are to be observed:
- a. The Geotechnical Engineer shall supervise the works in progress.
 - b. A dilapidation report on adjoining or nearby properties shall be prepared prior to any excavation, rock breaking, or associated work commencing and shall be submitted to the Principal Certifying Authority.
 - c. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
 - d. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
14. 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.
15. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
16. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- In this clause, allotment of land includes a public road and any other public place.
17. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
18. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday,

Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.

19. The fence and footings shall be constructed entirely within the site boundaries of the property.
20. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
21. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
22. 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.

23. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
24. 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.
25. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.

26. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
27. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
28. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
29. 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.
30. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
31. 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.

32. 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).

33. 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.
34. 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.
35. 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.
36. A construction management plan must be submitted for the approval of Council's Development Engineer before the commencement of demolition, excavation or construction works. The Plan must:
 - a. **Describe the anticipated impact of the construction works on:**
 - a. local traffic routes
 - b. pedestrian circulation adjacent to the building site;
 - c. and on-street parking in the local area; and;

b. Describe the means proposed to:

- a. manage construction works to minimise such impacts;
- b. provide for the standing of vehicles during construction;
- c. provide for the movement of trucks to and from the site, and deliveries to the site; and

c. Show the locations of:

- a. any site sheds and any anticipated use of cranes and concrete pumps;
- b. any areas of Council property on which it is proposed to install a construction zone, or to erect structures such as hoardings, scaffolding or shoring, or to excavate.

The Plan must make provision for all materials, plants, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding shoring or excavation need separate consent from Council. Standing of cranes and concrete pumps on Council property will need consent on each occasion.

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

- 37. An on-site detention system shall be provided for the development. The design shall be generally in accordance with the concept Stormwater Management report and plans 4115, sheets 1 to 3 by Boyden and Partners, dated March 2004. Volume storage requirements and peak site discharges shall be in accordance with Councils Stormwater Management Manual.
- 38. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided at the base of the ramped driveway and shall be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
- 39. For stormwater control all paved areas are to be drained to the main drainage system. This may require the installation of suitable cut-off structures, inlets and/or barriers that direct runoff to the formal drainage system.
- 40. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
- 41. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant

utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.

42. All public footways, verges and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.
43. 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.
44. 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".
45. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
46. The Applicant must obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at 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.
47. 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).

48. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage area, no doors or gates shall be provided in the access driveways to the basement car park which would prevent this service.
49. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
50. No dividing structures such as cages or partitioning walls shall be placed that divide individual car spaces. The design is approved based on an open space parking layout.
51. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must supervise the excavation procedure.
52. 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.
53. 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.
54. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
55. 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.
56. 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>Eucalyptus species</i> (Eucalypt)	8.0m
Adjacent to proposed driveway entry/exit on Eton Rd nature strip.	

57. 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. Reports from the Arborist to the Council shall be required as necessary. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.
58. 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.
59. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Eton St. The tree/s used shall be 25 litre container size specimen/s:

Tree Species
Syncarpia glomulifera (Turpentine) x 2

60. The following noxious and/or undesirable plant species shall be removed from the property and the adjoining pedestrian corridor adjacent to the south western site boundary prior to completion of the proposed building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Compliance Certificate:

Plant Species
Cinnamomum camphora (Camphor laurel)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)

61. 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.
62. In lieu of a communal composting area at ground level a receptacle shall be provided within the basement garbage room for communal composting, this shall be emptied on a weekly basis.
63. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.

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

64. 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 EIGHTEEN (18) ADDITIONAL DWELLINGS IS CURRENTLY \$297,514.98.

The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

65. An acoustic report is to be prepared by a suitable qualified acoustic consultant detailing the measures to be provided to ensure all units within the development comply with AS2107-2000. The report is to be submitted to the PCA for approval prior to the release of the Construction Certificate. All works required by the report are to be completed and the works certified by a suitably qualified acoustic consultant prior to the release of the Occupation Certificate.
66. 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.

67. 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).
68. 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.
69. Prior to issue of the Construction Certificate and as a requirement of the Roads and Traffic Authority, the Applicant shall obtain approval from the Ku-ring Gai Local Traffic Committee (KTC) to install "No Stopping" signage over the Pacific Hwy frontage of the subject site for the duration of the construction period. Further, the Applicant shall install a 'Work Zone' in Eton Rd, subject to approval from the KTC. The necessary fees shall be paid to the KTC for preparation of the report and subsequent installation of the signage. The Applicant shall liaise with Council Traffic Engineers regarding this condition.
70. Prior to issue of the Construction Certificate footpath and driveway levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and Eton road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to

Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.

NOTE 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.

NOTE 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

71. Prior to issue of the Construction Certificate, the Applicant shall submit a fully dimensioned layout (including widths of spaces) for the basement parking spaces, for approval by the Principal Certifying Authority. A qualified civil/traffic engineer, shall certify on this plan that the parking provisions provided in common areas and within private parking areas comply with the following standards:
 - Australian Standard 2890.1 – 2004 “Off-street car parking” and
 - The 2.5 metres headroom requirement under DCP40 for waste collection trucks in the relevant area (where internal collection is required).
72. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document “Managing Urban Stormwater – Soils and Construction” (1998). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
73. Prior to issue of the Construction Certificate the Applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details and specifications for provision of a rainwater tank(s) within the subject property, to be utilised for garden irrigation purposes. The total volume provided by the rainwater tank system shall be between 5000 and 10,000 litres. The tank(s) shall

designed to capture and retain runoff from a minimum 100m² roof area for each 5000 litres of rainwater storage, after which runoff reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 (appendix 6), available in hard copy at Council and on the Council website.

74. 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 required on-site stormwater detention system. The design shall be generally based on the concept Stormwater Management Report by Boyden and Partners, dated March 2004 (reference plans 4115, sheets 1 to 3) and shall be advanced for construction issue purposes. The storage volumes and design shall comply with Councils 1993 Stormwater Management Manual. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.
75. 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, down pipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 – Plumbing and Drainage Code.
76. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design plans and calculations for provision of a basement stormwater pump-out system for the driveway ramp runoff. The system shall comprise of both duty and back-up pumps, shall be designed for the 100 year runoff and have an emergency alarm system. The system is to include a holding well which has a storage capacity equivalent to the runoff volume from a 2 hour 100 year ARI storm event so that the basement is safeguarded from flooding during power failure for such a storm over such a period. Plans and details, including but not limited to, holding well volume calculations, inflow and outflow calculations, pump specification and duty curves are to be prepared by a qualified civil/hydraulic engineer.
77. The Applicant must submit carry out the following infrastructure works in the Eton Road reserve:
 - a. Construction of a new 1.5 metre wide pedestrian footpath between the pedestrian access points to the site in Eton Road and the existing footpath at the Pacific Hwy frontage.

78. Development Consent under the EP&A Act does NOT give approval to these works on Council property. **THE APPLICANT MUST OBTAIN A SEPARATE APPROVAL UNDER SECTION 138 AND 139 OF THE ROADS ACT 1993** for the works in the Public Road, required by this condition. The Construction Certificate must not be issued, and these works must not proceed, until Council has issued a formal written consent under the Roads Act 1993.
79. To obtain consent under the *Roads Act 1993* for the infrastructure works on Council property, full engineering drawings (plans, sections and elevations) and specifications for the infrastructure works are to be prepared by a suitably qualified and experienced consulting civil engineer. These must be submitted and approved by Council prior to issue of the Construction Certificate. Construction of the works must proceed in accordance with any conditions attached to the Council *Roads Act 1993* approval.
80. All works are to be designed in accordance with Council's "Specification for Road and Drainage Works". In addition, the drawings must detail existing services and trees affected by the footpath works, erosion control requirements and any traffic management requirements during the course of works. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998).

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

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

NOTE 3: Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

81. Prior to the issue of a Construction Certificate the applicant shall lodge a \$ 15,000 bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of all works relating to the proposed development or at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
- a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and

- b. The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
82. The Construction Certificate shall not be released until a Site Management Plan is submitted to the Principal Certifying Authority and approved by a suitably qualified professional. The plan shall indicate the planned phases of the construction work, erosion and drainage management, tree protection measures, areas nominated for storing materials, site access and where vehicle parking is proposed, during construction.
83. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works. To facilitate landscape amenity the following amendments are to be made;
- Four *Syncarpia glomulifera* (Turpentine) are to be planted within the setback between the Pacific Hwy and the residential flat building.
 - The proposed 'avenue' planting of small trees is to be extended to the Eton Rd site frontage.
 - The areas of gravel on each side of the informal pedestrian entry are to be deleted and planted with low shrubs and/or grasses.
 - The proposed planting area adjacent to the Pacific Hwy frontage is to be doubled in width and substantially planted out with screening shrubs to minimum height of 4.0m.
84. A plan detailing screen planting of the north western, and south western site boundaries shall be submitted to Council prior to the release of the Construction Certificate and approved by Council's Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of 5.0 metres.
85. The property shall support a minimum number of twelve (12) trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.
86. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and

maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

87. A cash bond/bank guarantee of \$5 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work. The bond will be returned following issue of the final Certificate of Compliance, provided the trees are undamaged.

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

Tree/Location

#1 *Eucalyptus* species

Adjacent to proposed driveway entry/exit on Eton Rd nature strip

CONDITIONS TO BE COMPLIED WITH PRIOR TO COMMENCEMENT OF ANY WORKS ON THE SITE

88. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
89. 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.
90. 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.
91. Prior to the commencement of any works on site the applicant must submit, for review by Council Engineers, a Traffic Control Plan. The plan must be prepared by a qualified civil/traffic engineer in accordance with the documents SAA HB81.1 – 1996 – “Field Guide for Traffic Control at Works on Roads – Part 1” and RTA “Traffic Control at Work Sites (1998)”. The following matters must be addressed:

Heavy vehicle routes

- a. Safe points of vehicular access to the construction site and details of the proposed route of heavy vehicles servicing the site, including the proposed route to the site for heavy vehicles traveling to the site from the south Pacific Hwy. Light traffic roads and those subject to a load limit are to be avoided.

Safe ingress and egress

- a. How the site will be safely accessed by all vehicles servicing the site including provision for forward ingress and egress and details of traffic control for the site, including provision of a flag person to control vehicle movements to and from the site.
- b. How safe egress for vehicles will be controlled on those occasions where forward egress is not possible.
- c. How pedestrians, particularly children from the nearby school, will be safely managed across the frontage of the site and the intersection of Eton Rd/Pacific Hwy.

Parking control

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

RTA concurrence

- a. Evidence of consultation with and concurrence of the RTA for the Traffic Control Plan as the site fronts the Pacific Hwy, a Classified Road.

Stages

- a. The Traffic Control Plan must recognise the different stages of the work, including site establishment, bulk excavation, concrete pours and

tradesperson and landscaper access, and specify the traffic management requirements of each stage.

NOTE 1: The Traffic Control Plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained prior to the issue of the Construction Certificate. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. Evidence of RTA concurrence, as required above, is to be lodged concurrently with Council.

NOTE 2: The traffic management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of any works on-site including excavation.

92. To preserve the following tree/s, no work shall commence until the trunk/s are protected by the placement of 2.0 metre lengths of 50 x 100mm hardwood timbers spaced at 150mm centres and secured by 2mm wire at 300mm spacings. The trunk protection shall be maintained intact until the completion of all work on site. Any damage to the tree/s shall be treated immediately by an experienced Horticulturist/Arborist, with minimum qualification of Horticulture Certificate or Tree Surgery Certificate and a report detailing the works carried out shall be submitted to the Principal Certifying Authority:

Tree/Location

#1 *Eucalyptus* species

Adjacent to proposed driveway entry/exit on Eton Rd nature strip

93. To preserve all the existing trees located on Council's Eton Rd nature strip, no work shall commence until the area below the canopy drip line of each tree is fenced off 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. A 1.2m wide pedestrian access is to be maintained immediately adjacent to the site boundaries at all times during construction/building works.
94. 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.
95. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION CERTIFICATE

96. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following works must be completed:
 - a. Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
 - b. Removal of all redundant driveway crossings and kerb laybacks in Eton Rd, fronting the subject site. Full reinstatement of these areas to footway, and/or turfed verge and/or kerb and gutter must be completed to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - c. Full completion of the Roads Act approved footpath works.
 - d. Any sections of damaged grass verge are to be fully replaced with a non-friable turf of native variety to match existing.
97. Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers prior to issue of any Occupation Certificate. This shall be at no cost to Council.
98. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.
99. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.
100. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following must be provided to Council (attention Development Engineer):
 - a. A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
 - b. A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and
 - c. The Engineer's certification of the as-built system.

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

101. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the existing 3 lots shall be consolidated. Such evidence of the consolidation, by way of a Land Title Office registered linen plan, shall be approved by the Principal Certifying Authority prior to issue of the Occupation Certificate.
102. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.
103. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, an easement for waste collection must be provided. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection, available upon request.
104. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit to the Principal Certifying Authority (PCA) certification from a suitably qualified and experienced traffic/civil engineer, that:
 - a. The dimensions of all as-constructed private car parking spaces meet the dimension requirements of Australian Standard 2890.1 – 2004 "Off-Street car parking", and
 - b. The as-constructed car park complies with the approved Construction Certificate plans, and
 - c. The vehicular headroom requirements of:
 - Australian Standard 2890.1 - "Off-street car parking", and
 - 2.44m height clearance for waste collection trucks (DCP 40) are met from the public street into and within the applicable areas of the basement car park, and

- No doors or gates have been provided in the access driveways to the basement car park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage area.

105. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention are to be submitted to the Principal Certifying Authority (PCA) for approval. Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

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

- As constructed levels in comparison to design levels
- As built location of all detention devices on the property (plan view) and distances to nearest adjacent boundaries, buildings and easements
- As built locations of all pits and grates in the detention system, including dimensions.
- The size of the orifice or pipe control fitted.
- Dimensions of the discharge control pit and access grates
- The achieved capacity of the detention storage and derivative calculation.
- The maximum depth of storage over the outlet control.
- Top water levels of storage areas and RL's at overflow point(s)

106. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:

- a. Construction of the stormwater drainage system (including but not limited to gutters, down pipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
- b. The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500, .3.2, and
- c. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices

In addition, a Works-as-Executed (WAE) drawing of the property stormwater drainage system is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority (PCA) prior to occupation, issue of an

Occupation Certificate or issue of the Final Compliance Certificate. The WAE plan shall show the following as built details, marked in red on the approved construction certificate stormwater drawings:

- a. As built reduced surface and invert levels for all drainage pits and connection points.
 - b. As built reduced level(s) at the approved point of discharge to the public drainage system.
 - c. Gradients of drainage lines, materials and dimensions.
107. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.
108. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) a suitably qualified and consulting geotechnical engineer is to provide certification to the Principal Certifying Authority (PCA) that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out :
- a. According the relevant Australian Standards and guidelines and
 - b. In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.
109. 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.
110. Without further written Consent of Council the development is to comply with the following indices:
- a. Maximum floor space ratio 0.85:1.
 - b. Maximum number of car parking spaces 35.
 - c. Minimum number of visitor car parking spaces 4.
 - d. Maximum height of top floor ceiling not to exceed 112.68 RL.
111. A Surveyor's Certificate is to be submitted to the Principal Certifying Authority confirming compliance with and a & f above prior to occupation.

CARRIED UNANIMOUSLY

*Standing Orders were suspended to deal with the
Business Paper items where there are speakers
after a Motion moved by Councillors Lane and Shelley
was CARRIED UNANIMOUSLY*

423 **Analysis of Land & Environment Court Costs 2003/2004**

File: S02466

I Glendinning addressed Council

To report on Council's financial liability on legal matters before the Land & Environment Court for the financial year ended 30 June 2004.

Resolved:

(Moved: Councillors Hall/Lane)

- A. That the analysis of Land & Environment Court Costs for the 2003/2004 financial year be received and noted.
- B. That the analysis of the Land & Environment Court Costs report be referred to the Planning Committee for discussion.

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

Against the Resolution: Councillor Bennett

424 **Heritage Nomination - Request to Prepare Local Environmental Plan**

File: P56728 P52770

The following members of the public addressed Council:

**M Rampling
S Robertson
K Woolley
G Shein
J Boyd
T Whitmore
Z Edwards**

For Council to consider the heritage status of two properties - 27 Richmond Avenue and 400 Mona Vale Road, St Ives and to determine whether the two properties should be included in the Pettit and Sevitt Display Village heritage group in St Ives.

Resolved:

(Moved: Councillors Bennett/Hall)

- A. That Council prepare a Local Environmental Plan to include 27 Richmond Avenue and 400 Mona Vale Road, St Ives as draft heritage items.
- B. That Council notify the Department of Infrastructure, Planning and Natural Resources of its intention to prepare a draft Local Environmental Plan in accordance with Section 54 of the EP & A Act.
- C. That Council notify the owners of all affected properties of its decision.
- D. That the Draft Plan be placed on exhibition on accordance with the requirements of the EP & A Act and Regulations.
- E. That a report be brought back to Council at the end of the exhibition period.

CARRIED UNANIMOUSLY

425

Re-exhibition - Draft Local Environmental Plan 200 - Consideration of Submissions

File: S03209

The following members of the public addressed Council:

**J Jephcott
C Brooking
M Arnett
G McClelland
N Cooper
S Lafferty
E Levy
G Lopez
P O'Brien
T Smart
C Young
M Ilanes
G Boston**

To have Council consider Draft Local Environmental Plan No 200 (DLEP 200) and the public submissions received in response to its re-exhibition.

Resolved:

(Moved: Councillors Malicki/Cross)

- A. That Council adopt Draft Local Environmental Plan No 200 as exhibited with the following amendments:
1. The deletion of the following 2(c2) sites from the Plan:

1548 Pacific Highway, Wahroonga
238-240 Mona Vale Road, St Ives
265 Mona Vale Road, St Ives
7 Ravenswood Avenue, Gordon
460 Pacific Highway, Lindfield
476 Pacific Highway, Lindfield
 2. The inclusion of the following sites as 2(c2) zones (but excluding detached dual occupancy development provisions):

112 Coonanbarra Road, Wahroonga
161 Rosedale Road, St Ives
39 Shinfield Avenue, St Ives
1 College Crescent, St Ives
124 Killeaton Street, St Ives
 3. The inclusion of the following sites as 2(c2) zones having the potential for detached dual occupancy development:

1 Sutherland Avenue, Wahroonga
2 Henry Street, Gordon
21 Provincial Road, Lindfield
149 Mona Vale Road, St Ives
2 Collins Road, St Ives
31 Karranga Avenue, Killara
6a & 8 Buckingham Road, Killara
 4. The amendment of accompanying maps to reflect the changes in Points 1-3.
 5. The amendment of the accompanying “Dwelling House Subdivisions Map” to include the provision of subdivision standards for those lands introduced into LEP 194, at Newhaven Place, St Ives and the Pockley Avenue, Kings Avenue, Maclaurin Parade, Nola Road and Corona Avenue at Roseville, by the Minister. The standards applying to the sites to be those as provided for in Council’s 2003 exhibited form of Draft LEP 194
- B. That Council forward Ku-ring-gai Draft Local Environmental Plan No 200 as adopted, the Council report and details of submissions to the Department of Infrastructure, Planning and Natural Resources in accordance with Section 68(4) of the Environmental Planning and Assessment Act 1979, together with its submission.
- C. That all parties making submissions and those owners whose lands were the subject of proposed zoning change under the exhibited Draft LEP 200 be advised of Council’s decision.

- D. 1. That Council prepare and exhibit an LEP to permit the strata subdivision of dual occupancies built on sites that have been rezoned under LEP 194 and for which consent for a dual occupancy development was granted prior to the date of commencement of LEP 194 or granted pursuant to the savings provision contained in LEP 194 (Clause 5).
2. That Council notify the Department of Infrastructure, Planning and Natural Resources in accordance with section 54(4) *Environmental Planning and Assessment Act* of its intention to prepare such an LEP and notify relevant authorities in accordance with Section 62 of the *Environmental Planning and Assessment Act*.
3. That a report be brought back to Council for consideration following completion of the exhibition period.
- E. That the following clause be added to Draft LEP200.

+

Land in zones Special Uses “A” and Special Uses “A1”

38C (1) *The Council is not to grant its consent to the carrying out of development for a hospital on lands zoned Special Uses “A” and Special Uses “A1” where the land falls within lands identified on the Ku-ring-gai Council Bush Fire Prone Land map in any of the following land categories:*

- *Bushfire Prone Vegetation Category 1.*
- *Bushfire Prone Vegetation Category 2.*
- *Bushfire Prone Vegetation Buffer 100m and 30m.*
- *SEPP5 Exclusion.*

(2) *Subclause (1) does not apply to land which has a hospital which is established and operating with consent on 24 August 2004.*

- F. That 3 to 15 Bundarra Avenue South be removed from Draft LEP 200.
- G. That a clause (3) be added to clause 38c to make it clear that clause 38c(1) does not apply to lands currently held by existing hospitals in the area.

For the Resolution: Councillors Andrew, Bennett, Cross, Ebbeck, Hall and Malicki

Against the Resolution: The Mayor, Councillor A Ryan, Councillors Lane and Shelley

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

(Moved: Councillors Hall/Cross)

A. *That Council adopt Draft Local Environmental Plan No 200 as exhibited with the following amendments:*

1. *The deletion of the following 2(c2) sites from the Plan:*

*1548 Pacific Highway, Wahroonga
238-240 Mona Vale Road, St Ives
265 Mona Vale Road, St Ives
7 Ravenswood Avenue, Gordon
460 Pacific Highway, Lindfield
476 Pacific Highway, Lindfield*

2. *The inclusion of the following sites as 2(c2) zones (but excluding detached dual occupancy development provisions):*

*112 Coonanbarra Road, Wahroonga
161 Rosedale Road, St Ives
39 Shinfield Avenue, St Ives
1 College Crescent, St Ives
124 Killeaton Street, St Ives*

3. *The inclusion of the following sites as 2(c2) zones having the potential for detached dual occupancy development:*

*1 Sutherland Avenue, Wahroonga
2 Henry Street, Gordon
21 Provincial Road, Lindfield
149 Mona Vale Road, St Ives
2 Collins Road, St Ives
31 Karranga Avenue, Killara
3-15 Bundarra Avenue South
6a & 8 Buckingham Road, Killara*

4. *The amendment of accompanying maps to reflect the changes in Points 1-3.*

5. *The amendment of the accompanying “Dwelling House Subdivisions Map” to include the provision of subdivision standards for those lands introduced into LEP 194, at Newhaven Place, St Ives and the Pockley Avenue, Kings Avenue, Maclaurin Parade, Nola Road and Corona Avenue at Roseville, by the Minister. The standards applying to the sites to be those as provided for in Council’s 2003 exhibited form of Draft LEP 194*

B. *That Council forward Ku-ring-gai Draft Local Environmental Plan No 200 as adopted, the Council report and details of submissions to the Department of Infrastructure, Planning and Natural Resources in accordance with Section 68(4) of the Environmental Planning and Assessment Act 1979, together with its submission.*

- C. *That all parties making submissions and those owners whose lands were the subject of proposed zoning change under the exhibited Draft LEP 200 be advised of Council's decision.*
- D. 1. *That Council resolve to prepare and exhibit an LEP to permit the strata subdivision of dual occupancies built on sites that have been rezoned under LEP 194 and for which consent for a dual occupancy development was granted prior to the date of commencement of LEP 194 or granted pursuant to the savings provision contained in LEP 194 (Clause 5).*
2. *That Council notify the Department of Infrastructure, Planning and Natural Resources in accordance with section 54(4) Environmental Planning and Assessment Act of its intention to prepare such an LEP and notify relevant authorities in accordance with section 62 Environmental Planning and Assessment Act.*
3. *That a report be brought back to Council for consideration following completion of the exhibition period.*
- E. *That the following clause be added to Draft LEP200.*

Land in zones Special Uses "A" and Special Uses "A1"

38C (1) *The Council is not to grant its consent to the carrying out of development for a hospital on lands zoned Special Uses "A" and Special Uses "A1" where the land falls within lands identified on the Ku-ring-gai Council Bush Fire Prone Land map in any of the following land categories:*

- *Bushfire Prone Vegetation Category 1.*
- *Bushfire Prone Vegetation Category 2.*
- *Bushfire Prone Vegetation Buffer 100m and 30m.*
- *SEPP5 Exclusion.*

(2) *Subclause (1) does not apply to land which has a hospital which is established and operating with consent on 24 August 2004.*

- F. *That a clause (3) be added to clause 38c to make it clear that clause 38c(1) does not apply to lands currently held by existing hospitals in the area.*

**During discussion of this item, Council adjourned for a short interval at 10.05pm after a Motion moved by The Mayor, Councillor Ryan and Councillor Ebbeck was CARRIED and the Chairperson ruled accordingly.
The Meeting resumed at 10.20pm**

Those present were:

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

426

Rezoning of B2 Road Reservation, Wahroonga - South Turramurra

File: S02846

To update Council on progress and recommendation for formal exhibition of Draft Local Environmental Plan No 201 (DLEP201), Rezoning of the Abandoned B2 Road Corridor between The Comenarra Parkway, Wahroonga and Kissing Point Road, South Turramurra.

Resolved:

(Moved: Councillors Malicki/Andrew)

- A. That Council exhibit Draft Local Environmental Plan No 201 in accordance with the provisions of the Environmental Planning and Assessment Act and Regulations with the following zones under the Ku-ring-gai Planning Scheme Ordinance.
- B. That in relation to Precinct 7 Comenarra Parkway to Kiogle Street, Fox Valley, the northern row of allotments fronting Comenarra Parkway be rezoned Open Space (6a) "Recreation Existing" under the Ku-ring-gai Planning Scheme Ordinance and that the southern row of allotments fronting Kiogle St be rezoned Residential 2(c).
- C.
 - 1. That in relation to precinct 8 Kiogle Street – Eurong Street, Fox Valley be rezoned Residential 2 (c) and the lot forming part of Eurong Street be rezoned to Open Space 6(a).
 - 2. That during the exhibition Council investigate alternative options for precinct 8 to address the issues of the ownership and management of the Asset Protection Zone and the protection where possible of the ecological values of the local remnant bushland.
- D. That in relation to precincts 9(a) (south of Eurong Street, Fox Valley – Field of Mars Avenue, South Turramurra) and Precinct 9(b) (Field of Mars Avenue – Canoon Road) be rezoned to Open Space 6(a) "Recreation Existing".

- E. That in relation to Precinct 10(a) (Canoon Road – Warner Avenue) the lots north of Canoon Road, be rezoned Open Space 6(a) “Recreation Existing” and South of Canoon Road be rezoned to Residential 2(c) under the Ku-ring-gai Planning Scheme Ordinance.
- F. That in relation to Precinct 10(b) (Warner Avenue – Chisholm Street) the lots north of Hall Street to Warner Avenue be rezoned Residential 2(c).
- G. That in relation to Precinct 11 (Chisholm Street – Kissing Point Road) the entire Precinct (including the two protrusions) be rezoned to Open Space 6(a) “Recreation Existing”.
- H. That Council resolve to exhibit Draft Local Environmental Plan No 201 in accordance with the Best Practice Guideline published by the Department of Urban Affairs and Planning in January 1997 titled “LEPs and Council Land – Guidelines for Councils using delegated powers to prepare LEPs involving land that is or was previously owned and controlled by Council”.
- I. That there be further investigation into any land for a potential future land swap.
- J. That a report be brought back to Council at the end of the exhibition period.

CARRIED UNANIMOUSLY

427

Carols in the Park

File: S02186

To advise Council of a request from the Combined Churches of Ku-ring-gai to participate in the Carols in the Park event in December 2004.

Resolved:

(Moved: Councillors Bennett/Malicki)

- A. That Council grant the \$10,000 that has been budgeted in the 2004/05 budget to the Combined Churches of Ku-ring-gai to enable the Carols in the park to continue for 2004.
- B. That the Combined Churches of Ku-ring-gai take responsibility for the organisation and payment of the venue, the portable toilets, the garbage collection, the chairs and trestle tables, and sound and stage lighting.
- C. That the Combined Churches of Ku-ring-gai take responsibility for the production and printing of all advertising materials and booking of banner sites for Carols in the Park.

- D. That the Combined Churches of Ku-ring-gai take responsibility for the liaison with and organising of community and commercial groups that participate in the Carols in the Park.
- E. That Council transfer funds budgeted for the Carols in the Park 2005 to the Financial Assistance Program for 2005/06, and invite the Combined Churches of Ku-ring-gai, along with any other community groups, to apply for funding to assist with their events in 2005/06.

CARRIED UNANIMOUSLY

428 **Centenary of Local Government in Ku-ring-gai**

File: S02646

To provide Council with an update on the Centenary of Local Government activities and to have Council determine future projects to celebrate 100 years of local government in Ku-ring-gai.

Resolved:

(Moved: Councillors Hall/Lane)

That Council approve the expenditure of \$50,000 to commence a research project on the first 100 years of local government in Ku-ring-gai.

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

Against the Resolution: Councillors Bennett, Malicki and Shelley

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

(Moved: Councillors Bennett/Malicki)

That the matter stand deferred for further discussion at the next Community Development Committee to be held as an evening meeting.

429 **Local Government Association Conference 2004**

File: S02132

For Council to determine its delegates to the 2004 Local Government Association Conference.

Resolved:

(Moved: Councillors Hall/Shelley)

- A. That Councillors advise the General Manager of their interest to attend the 2004 Local Government Association Conference before 7 September 2004.
- B. That the General Manager accompany elected representatives to the Conference.

CARRIED UNANIMOUSLY

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION

The following item was dealt with after a Motion moved by Councillors Lane and Ebbeck to have the matter dealt with at the meeting was CARRIED and the Chairperson ruled urgency

430

Retirement Villages

File: S02168

Councillor Hall expressed concern regarding the issues relating to recent findings of the NSW Coroner about electrical safety trip devices for all aged housing developments.

Resolved:

(Moved: Councillors Hall/Lane)

That Council write to all retirement villages and aged housing accommodation developments within the area suggesting that electrical safety trip devices be voluntarily given the recent findings of the NSW Coroner.

CARRIED UNANIMOUSLY

The following item was dealt with after a Motion moved by Councillors Malicki and Shelley to have the matter dealt with at the meeting was CARRIED and the Chairperson ruled urgency

431

MainStreet Conference

File: S02217

Councillor Malicki expressed her wish to attend the MainStreet Conference.

Resolved:

(Moved: Councillors Hall/Lane)

That Councillor Malicki attend the MainStreet Conference in Melbourne.

CARRIED UNANIMOUSLY

QUESTIONS WITHOUT NOTICE

432 Amend Ku-ring-gai Planning Scheme Ordinance - Additional Development be Prohibited as shown Cross-Hatched on Bushfire Evacuation Risk Map

File: S02151

Question Without Notice from Councillor N Ebbeck

Could Council officers bring back a report to Council to amend the KPSO for the areas shown as cross-hatched on the Bushfire Evacuation Risk Map so that:

1. Additional development which adds to the population of vulnerable groups (childcare centres, nursing homes, etc) is prohibited.
2. Additional development likely to increase the population such as subdivisions is prohibited.

Answer by the Mayor

We will report back.

433 Legality of Draft Development Control Plan No 55

File: S02988

Question Without Notice from Councillor T Hall

Given the combined effect of S.79C of the Environmental Planning and Assessment Act 1979 and the effect of the non-discretionary Clause 25M of the Minister's LEP 194 on Draft DCP 55, which Council has placed on public exhibition, and assertions there are significant conflicts between LEP 194 and Draft DCP 55:

1. What does Council know about the Government's position on this matter?
2. Have notes of discussions between Council and the DIPNR been kept and, if so, can they be provided to Councillors?
3. Does legal advice support Council's Draft DCP 55?

4. Does the Government have legal advice consistent with Council's advice? Can the advices be sighted by Councillors?
5. If conflicts exist, how did Council place itself in this position and what is the course of action now proposed?

Answer by the Mayor

The General Manager will report back.

INSPECTIONS COMMITTEE – SETTING OF TIME, DATE AND RENDEZVOUS

The next Inspections Committee will take place on a date to be determined to view the following property:

Camellia Grove Nursery – 238-240 Mona Vale Road, St Ives

The Meeting closed at 10.50pm

The Minutes of the Ordinary Meeting of Council held on 24 August 2004 (Pages 1 - 53) were confirmed as a full and accurate record of proceedings on 7 September 2004.

General Manager

Mayor / Chairperson