

## **MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 24 FEBRUARY 2004**

**Present:** The Mayor, Councillor I Cross (Chairperson) (Wahroonga Ward)  
Councillors L Bennett & T Hall (St Ives Ward)  
Councillors B Coleman & J Kitson (Gordon Ward)  
Councillors I de Vulder & E Malicki (Comenarra Ward)  
Councillors E Keays & A Little (Roseville Ward)  
Councillor T Roach (Wahroonga Ward)

**Staff Present:** General Manager (Brian Bell)  
Director Environment & Regulatory Services (Michael Miocic)  
Director Planning & Environment (Leta Webb)  
Director Technical Services (Greg Piconi)  
Director Open Space (Steven Head)  
Director Community Services (Janice Bevan)  
Director Finance & Business (John McKee)  
Development Control Officer (Rachel Josey)  
Team Leader, St Ives Ward (Graham Bolton)  
Acting Team Leader, Roseville Ward (Corrie Swanepoel)  
Senior Governance Officer (Geoff O'Rourke)  
Office Co-ordinator/WP (Casey Locke)

*The Meeting commenced at 7.01pm*

*The Mayor offered the Prayer*

### **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.

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

File: S02499

**Resolved:**

(Moved: Councillors Malicki/Hall)

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.

**CARRIED UNANIMOUSLY**

## **ADDRESS THE COUNCIL**

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

C Petherbridge

## **PETITIONS**

- 73     **Installation Of Roundabout At Corner Of Bannockburn Road & Pentecost Avenue, Pymble**  
File: 88/05930/03

**The following Petition was presented by the Mayor, Councillor Cross:**

“We the undersigned, request Ku-ring-gai Council act immediately in implementing the changes recommended by the Ku-ring-gai Traffic Committee and approved by Council on 14 October 2003, i.e. relocation of the pedestrian crossing and installation of a roundabout at the corner of Bannockburn Road and Pentecost Avenue, as per sketch plan No Pentecost/KTC/09/03 Option A.”

### **Resolved:**

(Moved: Mayor, Councillor Cross/Councillor Hall)

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

**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.1: 47 Bent Street, Lindfield – Memorandum from Director Environment & Regulatory Services dated 24 February 2004
- Refers GB.2: 50 Pentecost Avenue, Pymble - Memorandum Heritage Conservation Planner dated 22 February 2004 regarding consultant's report
- Refers GB.5: Analysis of Land & Environment Court Costs, 2<sup>nd</sup> Quarter 2003/2004 - Memorandum from Director Finance & Business Development dated 24 February 2004 regarding additional legal costs
- Refers GB.6: Budget for 2003/2004, 2<sup>nd</sup> Quarter Review as at 31 December 2003 - Memorandum from Director Finance & Business Development dated 24 February 2004 regarding additional recommendation
- Refers GB.13: Draft Section 94 Contributions Plan for Residential Development 2004-2009 - Memorandum from Open Space dated 24 February 2004

## **CONFIRMATION OF MINUTES**

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

File: S02131  
Meeting held 17 February 2004  
Minutes numbered 47 to 71

#### **Resolved:**

(Moved: Councillors de Vulder/Kitson)

That Minutes numbered 47 to 71 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting, with the exception of Minute No 62.

**CARRIED UNANIMOUSLY**

### **75 17 Redfield Road, Killara**

File: DA1601/02  
*Vide Minute No 62*

#### **Resolved:**

(Moved: Councillors Kitson/Coleman)

That Conditions 41 & 54 be amended to read:

41. New decking is to have minimum 5mm spacing to allow the free passage of rainwater through the deck.
54. For stormwater retention and quality control, provision of a five (5) metre long first-flush absorption trench within the subject property designed to capture and retain the first-flush stormwater runoff from the subject property after which runoff bypasses the trench and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The first-flush system may be achieved by the use of a separate low-level outlet from a pit located on the main drainage system.

NOTE 2: Where practicable, runoff from driveway and landscaped areas is to be directed to the retention system in preference to roof runoff.

NOTE 3: The trench shall be 700mm wide x 700mm deep and fitted with half round PVC (230mm radius) dome sections backfilled with crushed or round river gravel to within 150mm of surface level, surrounded with suitable geofabric and finished with topsoil.

NOTE 4: The trench is to be at least 5 metres from private property boundaries and 3 metres from the footings of any structure.

NOTE 5: A suitably designed litter and coarse sediment 450mm square grated arrestor pit is to be provided immediately upstream of the trench.

NOTE 6: The trench is not to require excavation underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 7: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied.

OR

For stormwater retention, provision of a 2000 litre rainwater tank within the subject property designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The tank is to be located at or above existing natural ground level.

NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.

- NOTE 3: The tank must not be located on the front façade of a dwelling.
- NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.
- NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.
- NOTE 6: The tank is to be a commercially manufactured tank designed for the use of water supply and to be installed in accordance with manufacturers specifications.
- NOTE 7: The tank is to be located above an available landscaped area so that the tank may be readily used for watering purposes.
- NOTE 8: The tank is to be fitted with a standard garden tap or similar which is to be clearly marked as not to be used for drinking purposes.
- NOTE 9: The tank is to be fitted with measures to prevent mosquito breeding.
- NOTE 10: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied

**CARRIED UNANIMOUSLY**

## **GENERAL BUSINESS**

76

### **Heritage Advisory Committee Meeting Minutes - 1 December 2003**

File: S02152

That Council receive and note the minutes of the Heritage Advisory Committee dated 1 December 2003.

#### **Resolved:**

(Moved: Councillors Bennett/Keays)

- A. That Council receive and note the minutes of the Heritage Advisory Committee meeting held on 1 December, 2003.
- B. That Council receive and note the submission by the Chair of the Heritage Advisory Committee regarding the proposed upgrades to the Gordon Railway Station.

**CARRIED UNANIMOUSLY**

77      **Tulkiyan Management Advisory Committee - Minutes of November & December 2003**

File: S02153

That Council receive and note the minutes of the Tulkiyan Management Advisory Committee meeting held on 26 November 2003 and 17 December 2003.

**Resolved:**

(Moved: Councillors Bennett/Kitson)

That Council receive and note the minutes of the Tulkiyan Management Advisory Committee meeting held on 26 November 2003 and 17 December 2003.

**CARRIED UNANIMOUSLY**

78      **175 Rosedale Road, St Ives (Headmaster's Gallery & Restaurant) - Proposed Assignment of Lease**

File: P64463

For Council to consider a request from the Lessee of Council property at 175 Rosedale Road, St Ives, known as the Headmasters Gallery and Restaurant to the assignment of the lease.

**Resolved:**

(Moved: Councillors Bennett/Hall)

- A. That Council approve the assignment of the Lease over 175 Rosedale Road, St Ives from Marmellon Pty Ltd to Lordandy Pty Ltd on the same terms and conditions as the existing lease.
- B. That all costs associated with the assignment of the lease to be born by the Lessee.
- C. That the Mayor and General Manager be authorised to execute the assignment of the documents.
- D. That Council authorise the affixing of the Common Seal of Council to assignment documents.

**CARRIED UNANIMOUSLY**

**Budget for 2003/2004, 2nd Quarter Review as at 31 December 2003**

File: S02394

To present to Council the quarterly financial review for the period ended 31 December 2003.

**Resolved:**

(Moved: Councillors Bennett/de Vulder)

- A. That Council adopt the variations contained in this report.
- B. That Council restrict \$92,500 to the Superannuation Reserve.

**CARRIED UNANIMOUSLY**

**2003 to 2007, 2nd Quarter Management Plan Review as at 31 December 2003**

File: S02394

To report to Council on the progress made towards achieving Key Performance Indicators as contained in Council's 2003 - 2007 Management Plan.

**Resolved:**

(Moved: Councillors Malicki/de Vulder)

That the report on the progress of the Key Performance Indicators contained in the 2003 - 2007 Management Plan for the 2nd quarter of the plan, be received and noted.

**CARRIED UNANIMOUSLY**

**Analysis of Land & Environment Court Costs, 2nd Quarter 2003/2004**

File: S02466

To report on Council's financial liability on legal matters before the Land & Environment Court for the half-year ended December 2003.

**Resolved:**

(Moved: Councillors Malicki/de Vulder)

That the Analysis for Land & Environment Court Costs for the first half of the 2003/2004 financial year be received and noted.

*For the Resolution:*      *The Mayor, Councillor I Cross, Councillors Bennett, Coleman, de Vulder, Keays, Kitson, Little and Malicki*

*Against the Resolution:*      *Councillor Hall*

82

**Evaluation of Tenders for Preparation of Development Application for the New Council Depot**

File: S02054

The purpose of this report is to seek Council's approval to let the tender for the preparation of the DA plans for the new Depot site at Suakin Street, Pymble.

**Resolved:**

(Moved: Councillors Malicki/de Vulder)

- A. That Council accept the tender from Michael Davis and Associates for the preparation of the DA plans for the design of the new depot at Suakin Street, Pymble.
- B. That the Mayor and the General Manager be delegated authority to sign the tender documents and agreements and affix the seal of Council.

*For the Resolution:*      *The Mayor, Councillor I Cross, Councillors Bennett, de Vulder, Hall, Keays and Malicki*

*Against the Resolution:*      *Councillors Coleman, Kitson and Little*

83

**17,19 & 21 Cunliffe Road, Killara - Creation of Easement for Drainage**

File: DA486/03

To seek approval to create an easement for drainage over 17, 19 and 21 Cunliffe Road, Killara and permit drainage into a Council pipeline.

**Resolved:**

(Moved: Councillors Kitson/Coleman)

- A. That Council approve the creation of the Easement as shown on attached plans L1247, L1775 and L1776a, for drainage affecting Lots 12, 13 and 14 in Deposited Plan 201952 respectively, known as 17, 19 and 21 Cunliffe Road, Killara.

- B. That authority be given to affix the common Seal of the Council to the appropriate instrument for the creation.
- C. That costs for the preparation including registration of the documentation pertaining to 19 & 21 Cunliffe Road (downstream) be met by the Applicant and costs associated with the creation of easement pertaining to 17 Cunliffe Road be met by Council.

**CARRIED UNANIMOUSLY**

84      **Centenary of Local Government in Ku-ring-gai 2006**

File: S02646

To provide Council with minutes from the second meeting of the Centenary of Local Government in Ku-ring-gai Committee Meeting on 12 February 2004.

**Resolved:**

(Moved: Councillors Kitson/Keays)

That Council investigate funding options in the 2004/05 budget workshop in March for up to \$100,000 for the publication of a history of local government in Ku-ring-gai in 2006.

*For the Resolution:            The Mayor, Councillor I Cross, Councillors  
Coleman, Hall, Keays, Kitson and Little*

*Against the Resolution:      Councillors Bennett, de Vulder and Malicki*

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

85      **50 Pentecost Avenue, Pymble - Demolition of Existing Structures and Erection of SEPP 5 Development Consisting of 6x3 Bedroom Units and Basement Parking**

File: DA 165/03

Ward: St Ives

Applicant: John Toon

Owner: John & Evnike Toon

**M Kavanagh addressed Council**

Determination of Development Application 165/03 for the demolition of an existing dwelling and timber garage and erection of a SEPP 5 development consisting of 6x3 bedroom units and a basement car park.

**Resolved:**

(Moved: Councillors Bennett/Hall)

That Development Application No 165/03 for the demolition of existing structures and construction of a SEPP 5 development consisting of six (6) units and basement car parking for Lot B in DP 337907, being 50 Pentecost Ave, Pymble be refused for the following reasons:

1. The proposed demolition of a draft or potential heritage item.
2. The proposal does not include the provision of an outside garbage area in accordance with Clause 13A(21) of SEPP 5.
3. The inappropriate removal of the Elm tree located adjacent to the eastern site boundary.
4. Adverse impact upon existing trees.
5. Adequate regard has not been given to Clause 25(a) of SEPP 5, in that the proposal will not maintain neighbourhood amenity and streetscape character.
6. Adequate regard has not been given to Clause 25(b)(i) of SEPP 5 as regards the privacy of neighbours.
7. The proposal is not in the public interest.
8. Clause 12(4) of SEPP 5 has not been satisfied. Written evidence has not been submitted that the proposed development will be connected to a reticulated water system and have adequate facilities for the removal and disposal of sewage.
9. The proposal does not satisfy Clause 14(f) of SEPP 5 in regard to deep soil planting.
10. The proposed landscaping is unsatisfactory, including plan detail.
11. A site analysis has not been submitted in accordance with Clause 24(2)(b) of SEPP 5.
12. Matters raised by objectors.

*For the Resolution:*                      *The Mayor, Councillor I Cross, Councillors Bennett, Coleman, de Vulder, Hall, Keays, Kitson, and Malicki*

*Against the Resolution:*      *Councillor Little*

86

**127 Bannockburn Road, Turramurra - Alterations & Additions to an Existing Dwelling & Construction of a New Dwelling to Create a Detached Dual Occupancy**

File: DA228/03

Ward: Wahroonga

Applicant: Mrs H Reid, c/o Glendinning Minto & Associates

Owner: Mrs H Reid

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

**R Reid  
D Green**

**Councillor Roach arrived during address**

To determine a development application for alterations and additions to an existing dwelling and erection of a new dwelling to create a detached dual occupancy.

**Resolved:**

(Moved: Mayor, Councillor Cross/Councillor Hall)

That the matter be deferred to the Council meeting of 9 March 2004 to allow the applicant and staff to consider the current recommendation and additional conditions proposed by the objector.

*For the Resolution:           The Mayor, Councillor I Cross, Councillors de  
Vulder, Hall, Keays, Little, and Roach*

*Against the Resolution:   Councillors Bennett, Coleman, Kitson and Malicki*

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

*(Moved: Councillors Bennett/Malicki)*

*That the matter be deferred to the Council meeting of 9 March 2004 to allow the  
applicant, objectors and staff to consider the current recommendation.*

87

### **37 Woodbury Road, St Ives - Supplementary Report**

File: 102/03

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

**D Shearman  
H Sidaway  
D Cohen**

To provide a response to matters raised during the site inspection carried out on 14 February 2004.

**Resolved:**

(Moved: Councillors Hall/Malicki)

That Development Application 102/03 for the demolition of existing structures and the subdivision of the existing allotment to create two allotments at Lot 1, DP 617449, being 37 Woodbury Road, St Ives be approved as a deferred commencement for two years, subject to the following conditions:

#### **SCHEDULE A**

1. Prior to issue of the Construction Certificate the Applicant shall submit, for approval, to Council, certification from a suitably qualified and experienced civil/hydraulic engineer that the existing pipes within the interallotment drainage easement system to be utilised over downstream property, which are not proposed to be reconstructed, are in satisfactory condition and have hydraulic capacity to carry future uncontrolled design flowrates including detention system overflows (where detention systems are to be provided) from the proposed lots, as far as the approved point of discharge to a recognised public drainage system.

Alternatively, where it is found that the existing pipes are in disrepair or will have insufficient hydraulic capacity to carry additional flows as a result of the subdivision, the Applicant shall submit for approval by Council, prior to issue of the Construction Certificate, full design documentation for an upgraded interallotment drainage system from the approved lot to the approved point of discharge to the recognised public drainage system. Plans are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with the requirements of Council's Stormwater Management Manual 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 flowrates, or detention system overflows where detention systems are to be provided, from the subject property. The following details must be included:

- a. Plan view of system to scale showing dimensions, location and reduced levels of all pits, pipes, flushing facilities and exact point of discharge to Council system,
  - b. Supporting sizing and contributing catchment calculations
  - c. Longitudinal section showing existing ground levels and proposed invert levels,
  - d. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system.,
  - e. Means to preserve the root systems of trees within seven (7) metres of the drainage system.
2. Prior to issue of the Construction Certificate the Applicant shall submit, for approval by Council, full design documentation for the required interallotment drainage between the proposed new lots and the existing easement benefiting the mother lot. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with the requirements of Council's Stormwater Management Manual 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 flowrates, or detention system overflows where detention systems are to be provided, from the subject property. The following details must be included:

- a. Plan view of system to scale showing dimensions, location and reduced levels of all pits, pipes, flushing facilities and exact point of discharge,
- b. Supporting sizing and contributing catchment calculations
- c. Longitudinal section showing existing ground levels and proposed invert levels,
- d. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system.,
- e. Means to preserve the root systems of trees within seven (7) metres of the drainage system.

NOTE: The matters referred to in Schedule A must be completed to Council's satisfaction within TWO YEARS from the date of this Deferred Commencement Approval before the Consent operates.

NOTE: It is the applicant's responsibility to check the title of the subject land to establish if the application is affected by any easements, covenants or restrictions on the use of the land that may affect the proposed structure.

THIS CONSENT will be ISSUED SUBJECT TO CONDITIONS OF APPROVAL as specified hereunder in Schedule B.

This permit shall be read in conjunction with the approved plans and specifications.

The following conditions specified hereunder in Schedule B shall be imposed on Development Application.

## **SCHEDULE B**

### **GENERAL CONDITIONS**

1. The works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
2. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
3. 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.
4. 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.

5. 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.
6. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
7. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
8. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
9. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
10. 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.
11. The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.
12. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
13. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
14. 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.

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.

15. 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.
16. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
17. Demolition traffic shall be restricted to access the site from Woodbury Road only, except for demolition workers personal vehicles, which may access the site via Maunder Avenue and park on the rear of the property.
18. 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.
19. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
20. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
21. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
22. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
23. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
24. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
25. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
26. 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.
27. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
  28. 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 minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities are to be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps are to be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
  29. The relocation or adjustment of any utility service facilities are to be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
  30. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works.
  31. 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.
  32. The creation of a Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the area of land beneath the canopy of the following tree/s for a specified radius in metres from the trunk of that tree, the terms of which state that any excavations, soil level changes or construction works are prohibited with the exception of any driveway as approved by Council:

All tree numbers as identified in Tree Report by Pittendrigh Shinkfield Bruce dated 29 January 2003 submitted as part of DA 103/03.

Tree No	Tree	Location	Radius (m)
1	<i>Eucalyptus saligna</i>	North boundary, neighbours side	8
3	<i>Eucalyptus saligna</i>	North boundary, neighbours side	7
4	<i>Eucalyptus saligna</i>	North boundary, neighbours side	8
5	<i>Syncarpia glomulifera</i>	North boundary, neighbours side	4
6	<i>Eucalyptus saligna</i>	North boundary, neighbours side	8
7	<i>Eucalyptus saligna</i>	East boundary, neighbours side	5

9	<i>Eucalyptus saligna</i>	East boundary, neighbours side	8
19	<i>Eucalyptus resinifera</i>	South-east corner of site	8
20	<i>Angophora costata</i>	South boundary	8
25	<i>Eucalyptus paniculata</i>	South boundary	8

#### CONDITION TO BE COMPLIED WITH PRIOR TO THE RELEASE OF THE CONSTRUCTION CERTIFICATE

33. The Applicant must carry out the following infrastructure works in Maunder Ave:

Prepare subgrade, place 150mm (min.) DGS 40 sub-base, place 100mm (min.) DGB20 F.C.R basecourse and seal road with 50mm (min.) Asphaltic Concrete AC14 over the end triangular section of Maunder Ave, fronting proposed lot 2. The section of Maunder Ave to be formed as above shall be a 'wedge' shape formed by boundaries along the full Maunder Ave frontage of proposed lot 2 (only), and a straight extension of the common boundary alignment between proposed lot 2 and the adjacent lot 3 of DP 617449.

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

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

All works are to be designed in accordance with Council's "Specification for Road and Drainage Works". In addition, the drawings are to detail erosion control requirements during the course of works.

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

NOTE 2: An hourly assessment fee (set out in Councils adopted fees and charges) will be charged and Council will withhold any consent until full payment of the correct fees.

NOTE 3: Plans and specifications must be marked to the attention of Councils 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. Failure to do so may delay the processing of the application.

34. Prior to the issue of a Construction Certificate the Applicant shall lodge a \$8,000.00 bond with Council. This bond will cover the completion of any incomplete road works required under this consent. 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 Development Engineer. Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO THE RELEASE OF THE SUBDIVISION CERTIFICATE

35. To obtain the Subdivision Certificate, the submission of an original Plan of Subdivision plus five (5) copies, suitable for endorsement by the certifying authority.

Note: The following details must be submitted with the Plan of Subdivision:

- a. The 88B Instrument plus 5 copies.
- b. The Engineer's Certification of the on-site Stormwater detention facility. This must be on the standard Council On-Site Detention certification sheet, available from Council's customer services.
- c. Any Surveyors or Engineers Certification required by other conditions in this consent.
- d. The Section 73 Compliance Certificate.

Note: Council will check the consent conditions and failure to submit the required information will delay issue of the Subdivision Certificate.

36. The submission of an instrument under Section 88B of the Conveyancing Act with the Plan of Subdivision, plus five (5) copies, creating any required easements, rights-of-carriageway, positive covenants, restrictions etc. Ku-ring-gai Council must be named as the authority empowered to release, vary or modify the same.
37. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities. A plan detailing services trenches, which shows distances from proposed and existing trees, shall be submitted for approval prior to the release of the Subdivision Certificate. The provision of these measures is to be certified by a consulting engineer or surveyor prior to the issue of a Subdivision Certificate.
38. Completion of the road works in Maunder Ave in accordance with the Council approved drawings must be undertaken, Prior to release of the linen plan/issue of the subdivision certificate. The works are to be to the satisfaction of Council's Development Engineer and must be supervised by the Applicant's designing

engineer. This 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 as noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met to the satisfaction of Council's Development Engineer. The completed works are to be approved by Council's Development Engineer Prior to release of the linen plan/issue of the subdivision certificate.

39. The construction of the necessary interallotment drainage works prior to issue of an Subdivision Certificate. The works are to be supervised by the designing engineer or surveyor and certified upon completion that the as-constructed works comply with the approved design documentation and/or with Council's Stormwater Management Manual. The designing engineer or surveyor is to also submit a works-as-executed drawing of the as-constructed works. A registered surveyor is to certify that all drainage structures are wholly contained within the drainage easement(s).
40. Prior to the issue of a Subdivision Certificate any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer.
41. For any of the legal instruments created as a requirement of this determination, Ku-ring- gai Council is to be named as the only authority whose consent is required to release, vary or modify such instruments.
42. Creation of suitable drainage easements with minimum widths in accordance with Council's Stormwater Management Manual over all of the inter-allotment and Council drainage systems.
43. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained and submitted prior to the release of a Subdivision Certificate. 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](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.
44. The allotments shall support a minimum number of 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 as below. The existing trees, and additional trees to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council and approved by Council's Landscape Development Officer. Tree planting shall be completed prior to release of the Certificate of Subdivision.
45. The tree/s to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

Lot 1     7 trees  
Lot 2     5 trees

*For the Resolution:*            *The Mayor, Councillor I Cross, Councillors de Vulder, Hall, Keays, Little, Malicki and Roach*

*Against the Resolution:*     *Councillors Bennett, Coleman and Kitson*

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

*(Moved: Councillor Bennett/Mayor, Councillor Cross)*

*The above Resolution with the following additional condition:*

*That all garbage from the lot fronting Maunder Avenue be disposed of via Woodbury Road.*

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

88

### **Railway Station Lifts – Implementation**

File: S02261

**Notice of Motion from Councillor T Hall dated 17 February 2004.**

#### **M Lane addressed Council**

I move:

- A. That this Council recognise the need to improve accessibility of the railway stations between Chatswood and Waitara.
- B. That this Council recognise the heritage significance of the railway/stations in the Ku-ring- gai Local Government Area
- C. That this Council immediately commence discussions with State Rail to implement a program to install lifts and/or escalators at all railway stations in the Ku-ring- gai Local Government Area;
  - i. by establishing a working party chaired by the Mayor and including interested Councillors, representatives from State Rail and consultants expert in the field of heritage protection and disabled access,
  - ii. to develop a set of guidelines to implement better accessibility for these stations including their prioritising for attention,
  - iii. to seek funding from the Governments City Car Park Levy Scheme,

- iv. to offer to meet part of the costs of installation such as design consultancy work for consideration under the forthcoming budget.

**Resolved:**

(Moved: Councillors Hall/Kitson)

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

*For the Resolution: The Mayor, Councillor I Cross, Councillors Bennett, Coleman, Hall, Kitson, Little, Malicki and Roach*

*Against the Resolution: Councillors de Vulder and Keays*

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

*(Moved: Councillors Kitson/Bennett)*

- A. *That this Council recognise the need to improve accessibility of the railway stations between Chatswood and Waitara.*
- B. *That this Council recognise the heritage significance of the railway/stations in the Ku-ring-gai Local Government Area*
- C. *That this Council immediately commence discussions with State Rail to implement a program to install lifts and/or escalators at all railway stations in the Ku-ring-gai Local Government Area;*
- i. *by establishing a working party chaired by the Mayor and including interested Councillors, representatives from State Rail and consultants expert in the field of heritage protection and disabled access, including representatives of the Heritage Advisory Committee and Ku-ring-gai Access Committee*
- ii. *to develop a set of guidelines to implement better accessibility for these stations including their prioritising for attention,*
- iii. *to seek funding from the Governments City Car Park Levy Scheme.*

**Councillor Hall withdrew**

89

**47 Bent Street, Lindfield - Demolition of Existing Dwelling, Construction of a Detached Dual Occupancy**

File: DA1262/03

Ward: Roseville  
Applicant: Geoffrey Lee  
Owner: Geoffrey Lee

To determine a development application for demolition of the existing dwelling and construction of a detached dual occupancy.

**Councillor Roach withdrew during discussion**

**Resolved:**

(Moved: Councillors Little/Keays)

That the matter be deferred to:

1. Address the issues raised in the supplement to the Council report.
2. Clarify in the conditions the status and function of the riparian zone and the use of indigenous riparian species in the Landscape plan and the exclusion of the rear patio of the second dwelling from the riparian area.

*For the Resolution:           The Mayor, Councillor I Cross, Councillors Bennett, Coleman, Keays, Kitson, Little and Malicki*

*Against the Resolution:   Councillor de Vulder*

90

**Draft Section 94 Contributions Plan for Residential Development 2004-2009**

File: S02073

To present a Draft Section 94 Contributions Plan for Residential Development 2004-2009 and recommend its adoption by Council for public exhibition.

**Councillors Roach and Hall returned during discussion**

**Resolved:**

(Moved: Councillor Hall/Mayor, Councillor Cross)

- A. That Council adopt for exhibition the Draft Section 94 Contributions Plan Residential Development 2004-2009.
- B. That the Draft Section 94 Contributions Plan Residential Development 2004-2009 be placed on public exhibition for a period of 28 days seeking comment on the Draft Plan.
- C. That while the draft section 94 plan is on exhibition, Council investigate opportunities, costs and rates of contribution for further acquisition and

embellishment of Open Space so that the rate of provision per capita and standard of local open space provided to meet the demand of additional population is more comparable to that which is provided for the existing population.

- D. That a report on the submission be brought back to Council on the completion of the exhibition period.
- E. That the land comprising the former B2 corridor at the rear of Lucinda Avenue Wahroonga be investigated as a priority in the Acquisition Planning Study which is identified as a project in the draft plan.

*For the Resolution:           The Mayor, Councillor I Cross, Councillors de Vulder, Hall, Malicki and Roach*

*Against the Resolution:   Councillors Bennett, Coleman, Keays, Kitson and Little*

*The voting being EQUAL, the Mayor exercised his Casting Vote  
IN FAVOUR of the Motion*

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

*(Moved: Councillors Little/Bennett)*

- A. *That Council amend the Section 94 Contribution Plan to allow for a weighting applied to the purchase of new open space as was discussed at the last Section 94 meeting with Councillors.*
- B. *That the Amended Section 94 Contribution Plan be brought back the Council meeting of 9 March 2004.*

## **QUESTIONS WITHOUT NOTICE**

### **91 New Car Parking in Ku-ring-gai Retail Areas**

File: S02073

Question Without Notice from Councillor T Hall

Can a report be brought to Council reviewing how Council can provide additional car parking (including multi-storey car parking) near commercial centres?

This should include a review of existing Section 94 Plans, utilisation of funds collected under Section 94, opportunities to levy new residential development under Section 94 and other funding opportunities.

### **Answer by the Mayor**

The General Manager will investigate and report.

92      **238 to 240 Mona Vale Road, St Ives – Camellia Grove Nursery**

File: P52812

Question Without Notice from Councillor L Bennett

If Camellia Grove Nursery were subject to a heritage listing and the owner was able to demonstrate that the Nursery was in financial difficulties, would the heritage provisions of the relevant planning instruments permit the establishment of a new commercial venture on site?

**Answer by the Mayor**

The General Manager will investigate and respond.

93      **Cost of Heritage Consultants**

File: S03230

Question Without Notice from Councillor I de Vulder

Could the General Manager report to Councillors on how much has Council spent, per year, on heritage consultants, including Council's Heritage Advisor, over the life of this Council?

**Answer by the Mayor**

The General Manager will investigate and report.

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

The next Inspections Committee will be held on Saturday, 28 February 2004.

*The Meeting closed at 10.14pm*

The Minutes of the Ordinary Meeting of Council held 24 February 2004, (Pages 1 – 25), were confirmed as a full and accurate record of proceedings on 2 March 2004.

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General Manager

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Mayor / Chairperson