

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 24 OCTOBER 2006

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

Staff Present: General Manager (John McKee)
Acting Director Finance & Business (John Clark)
Director Development & Regulation (Michael Miocic)
Manager Development Assessment Services (Matthew Prendergast)
Director Technical Services (Greg Piconi)
Director Open Space & Planning (Steven Head)
Manager Urban Planning (Antony Fabbro)
Director Community Services (Janice Bevan)
Minute Taker (David Lethbridge)
Minutes Secretary (Christina Randall-Smith)

The Meeting commenced at 7.01pm

The Mayor offered the Prayer

DECLARATIONS OF INTEREST

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

Councillor Malicki declared a Conflict of Interest in Item GB.2 - 1 Ray Street, Turramurra - Alterations & Additions to an Existing Supermarket (Coles), Basement Car Parking (92 Spaces) & Signage as she shops at Coles.

Councillor Barnett declared a Conflict of Interest in Item GB.2 - 1 Ray Street, Turramurra - Alterations & Additions to an Existing Supermarket (Coles), Basement Car Parking (92 Spaces) & Signage as she shops at Coles.

Councillor Bennett declared a Conflict of Interest in Item GB.3 - 245 to 247 Bobbin Head Road, Turramurra - Demolition & Construction of a Commercial Building containing Ground Floor Mini Market, First Floor Office Space, Employee Car Parking & Signage as her child attends the school opposite the development.

Councillor Shelley declared a Conflict of Interest in Item GB.4 - 212, 214 & 216 Mona Vale Road, St Ives - Construction of Two Residential Flat Buildings as her friend is involved as a College Library Party Member.

Councillor Ryan declared a Conflict of Interest in Item GB.7 - Code of Conduct Committee Findings - Report Card March 2005 as the item was about her.

The Mayor, Councillor Ebbeck declared a Conflict of Interest in Item GB.7 - Code of Conduct Committee Findings - Report Card March 2005 as he is on the Committee.

Councillor Bennett declared a Conflict of Interest in Item GB.7 - Code of Conduct Committee Findings - Report Card March 2005 as the item was about her.

The General Manager declared a Conflict of Interest in Item GB.7 - Code of Conduct Committee Findings - Report Card March 2005 as he is on the Committee.

Acting Director Finance, Director Development & Regulation, Director Open Space & Planning, Director Technical Services & Director Community Services declared Conflicts of Interest in Item GB.6 - Review of Organisation Structure.

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

File: S02499

Resolved:

(Moved: Councillors Hall/Lane)

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, including:

Refer GB.6: Memorandum by General Manager dated 24 October 2006 with attachments of legal advice from Matthews Folbigg, Solicitors

CARRIED UNANIMOUSLY

ADDRESS THE COUNCIL

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

C Bear
R Magee
P Fisher

DOCUMENTS CIRCULATED TO COUNCILLORS

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

Late Items: Confirmation of Minutes - Meeting held 17 October 2006, Minutes numbered 387 to 412

Refer PT.2 - Petition: Support for Proposed IGA Convenience Store - 245 to 247 Bobbin Head Road, North Turramurra - (Three Hundred & Fifty-Six [356] Signatures)

Refer PT.3 - Petition: Request Increase of the FSR of Precinct L in the Draft Gordon Town Centre LEP & DCP - (Sixteen [16] Signatures)

Memorandums: Refer GB.1 - Town Centres Planning - Extraordinary Meetings of Council - Memorandum by Director Open Space & Planning dated 24 October 2006

Refer GB.2 - 1 Ray Street, Turramurra - Alterations & Additions to an Existing Supermarket (Coles), Basement Car Parking (92 Spaces) & Signage - Memorandum by Manager Urban Planning dated 24 October 2006

Refer GB.3 - 245 to 247 Bobbin Head Road, Turramurra - Demolition & Construction of a Commercial Building containing Ground Floor Mini Market, First Floor Office Space, Employee Car Parking & Signage - Memorandum by Acting Director Development & Regulation dated 18 October 2006 regarding a Petition from SPD Town Planners containing 356 signatures - refer PT.2 - Late Item as above

Refer GB.7 - Code of Conduct Committee Findings - Report Card March 2005 - Memorandum by General Manager dated 24 October 2006 with attachment from Chairperson of Conduct Committee

CONFIRMATION OF MINUTES

414 Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 17 October 2006
Minutes numbered 387 to 412

Resolved:

(Moved: Councillors Cross/Ryan)

That Minutes numbered 387 to 412 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

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

Against the Resolution: Councillor Andrew

PETITIONS

415 **Petition in Favour of Bushlands / St Johns Avenue Park - (One Hundred & Sixty-Eight [168] Signatures)**

File: S04096

"We the undersigned:

- Commend Council for its vision and foresight in excluding 22 St John's Avenue and 3, 5, 7 and 7A Bushlands Avenue from the draft LEP, and identifying those properties for future potential open space acquisition.
- Deplore the prospect of medium or high density residential development on a property (22 St John's Avenue) adjacent to the historic St John's Church cemetery.
- Urge the Council to maintain its resolve to exclude these properties from the draft LEP.
- Urge the Council to continue to identify these properties for future open space acquisition - a new park to complement the heritage St John's Church and cemetery, and to provide much - needed open space for the dramatically increased numbers of Gordon residents and retail/commercial staff/customers envisaged by the LEP."

Resolved:

(Moved: Councillors Ryan/Lane)

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

CARRIED UNANIMOUSLY

416 **245 to 247 Bobbin Head Road, North Turramurra - Support for Proposed IGA Convenience Store (Three Hundred & Fifty-Six [356] Signatures)**

File: DA0509/06

"We, the undersigned, are in favour of an IGA Convenience Store to be located at 245 to 247 Bobbin Head Road, North Turramurra as it will significantly improve the level of convenience for local residents and we urge Council to approve the proposal."

Resolved:

(Moved: Councillors Ryan/Cross)

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

CARRIED UNANIMOUSLY

417 **Petition opposing Large Commercial Development in St John's Avenue West - (Six Hundred & Forty-Five [645] Signatures)**

File: S04096

Petition presented to Council by Councillor Ryan:

"We, the undersigned, are concerned at the massive impact the proposed developments of Gordon Town Centre will cause.

- * We wish to maintain the character and heritage of St Johns Avenue as a residential street.
- * We oppose the unfairness of Ku-ring-gai Council in making St Johns Avenue the only residential zoned Street in Ku-ring-gai to be up-zoned to commercial mixed use with 2 floors of retail including a mega supermarket and a residential tower of an additional 6 storeys.

- * We oppose the unfairness of Ku-ring-gai Council's harsher commercial viability returns requiring a larger development applied to St Johns Ave residential land versus existing commercial land in Pacific Highway and east St Johns Avenue.
- * We oppose development past the natural boundary of the cemetery.

Instead of commercial development, we would support a medium density residential development. This should be a stepped down, 5 storey development not extending beyond the cemetery boundary in St Johns Avenue."

Resolved:

(Moved: Councillors Ryan/Lane)

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

CARRIED UNANIMOUSLY

418

Draft Gordon Town Centre LEP & DCP – Petition to Request Increase of the FSR of Precinct L – (Sixteen [16] Signatures)

File: S04096

"We, the undersigned land owners and residents of Mt William Street, Pearson Avenue and Burgoyne Street, Gordon object to the current FSR applied to Precinct L, within the Draft LEP & DCP of Gordon Town Centre, Ku-ring-gai.

Under the Draft LEP & DCP, despite being listed as an R4 (High Density) zone, rezoning for this precinct proposes to establish an FSR of only 1:1.

This is inconsistent with the other R4 zones under the Draft LEP & DCP and has the impact of reducing the potential redevelopment dwelling yield and substantially devaluing all the properties in the precinct due to the lack of economic viability in redeveloping the land.

We request that the FSR for Precinct L be lifted to 1.3:1, consistent with the FSR of adjoining areas and other R4 zones within the Ku-ring-gai area."

Resolved:

(Moved: Councillors Ryan/Lane)

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

CARRIED UNANIMOUSLY

419 **245 to 247 Bobbin Head Road, North Turramurra - Support for Proposed IGA Convenience Store - (Five Hundred & Seventy-Four [574] Signatures)**

File: DA0509/06

"We, the undersigned, are in favour of an IGA Convenience Store to be located on 245 to 247 Bobbin Head Road, North Turramurra.

It will significantly improve the level of convenience for local residents and we urge Council to approve the proposal."

Resolved:

(Moved: Councillors Cross/Lane)

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

CARRIED UNANIMOUSLY

GENERAL BUSINESS

420 **212, 214 & 216 Mona Vale Road, St Ives - Construction of Two Residential Flat Buildings**

File: DA0338/06

Ward: St Ives

To respond to issues raised at the Council site inspection of 7 October 2006 and seek Council's determination of development application No. 338/06.

Resolved:

(Moved: Councillors Hall/Bennett)

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

THAT the Council, as the consent authority, grant development consent to DA 338/06 for demolition of 3 dwelling houses and construction of two residential flat buildings, comprising 52 units, basement car parking for 105 vehicles and associated landscaping and drainage on land at 212-216 Mona Vale Road, St Ives, for a period of two (2)

years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans identified in the following schedule and endorsed with Council's approval stamp, except where amended by the following conditions:

Dwg No	Issue	Description	Author	Dated	Lodged
A2.01	B	Basement Level Plan	Marchese & Partners Intl	31 Jul 2006	15 Aug 2006
A2.02	B	Lower Basement Plan	Marchese & Partners Intl	31 Jul 2006	15 Aug 2006
A2.03	C	Site/Ground Floor Plan	Marchese & Partners Intl	31 Jul 2006	15 Aug 2006
A2.04	A	Level 2-4 Plan (Typical)	Marchese & Partners Intl	11 Apr 2006	15 Aug 2006
A2.05	B	Level 5 Plan	Marchese & Partners Intl	31 Jul 2006	15 Aug 2006
A2.06	A	Roof Plan	Marchese & Partners Intl	11 Apr 2006	15 Aug 2006
A4.01	A	Section A-A	Marchese & Partners Intl	11 Apr 2006	15 Aug 2006
A3.01	A	Elevations (Sheet 1)	Marchese & Partners Intl	11 Apr 2006	15 Aug 2006
A3.02	A	Elevations (Sheet 2)	Marchese & Partners Intl	11 Apr 2006	15 Aug 2006
A3.03	A	Colours and finishes	Marchese & Partners Intl	11 Apr 2006	12 Apr 2006
0501	a06	Landscape plan	dem	4 Aug 2006	15 Aug 2006
0502	a06	Landscape plan	dem	4 Aug 2006	15 Aug 2006

2. The developer shall submit to Council a letter from the energy supply authority and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone and power services, prior to the release of the Subdivision Certificate or Occupation. Application may be made to Energy Australia Phone No. 13 1525 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.
3. 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.
4. To avoid the proliferation of plant equipment that is visible to the street, individual air conditioning units shall not be installed on any unit balcony or on the roof of any residential flat building. All air conditioning condenser equipment shall be contained within the basement levels of the building and all ducting contained wholly within the building.
5. All building works shall comply with the Building Code of Australia.
6. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.

7. 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 a Occupation Certificate has been issued.
8. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a permanent drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.
9. The swimming pool is to be made safe during all demolition work by the erection of temporary safety fence to the satisfaction of the Principal Certifying Authority.
10. 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.
11. 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.
12. **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.
13. 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.
14. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.

15. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
16. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
17. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a. must preserve and protect the building from damage, and
 - b. if necessary, must underpin and support the building in an approved manner, and
 - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

In this clause, allotment of land includes a public road and any other public place.

18. 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.
19. The fence and footings shall be constructed entirely within the 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. 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.
23. 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.

24. 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.

25. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
26. 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.
27. 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.
28. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
30. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the WorkCover guidelines to prevent personal and environmental contamination.

31. 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:
- stating that unauthorised entry to the work site is prohibited, and
 - 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:

- building work carried out inside an existing building, or
 - 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.
32. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
33. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The (minimum) total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy the BASIX commitments.
34. In addition to the mandatory rainwater retention and re-use system provided, an on-site stormwater detention system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
35. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanized grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.
36. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction

Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.

37. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.
38. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
39. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of eth development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
40. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
41. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All

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

42. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
43. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au 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.
44. In order to allow **unrestricted access at all times** for Ku-ring-gai Council waste collection vehicles into the basement garbage collection area - no doors, grilles, gates or other devices are to be provided in the access driveways to the basement car park which would prevent this service.
45. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure. Geotechnical aspects of the development work, namely:
 - Appropriate excavation methods and techniques,
 - Vibration management and monitoring,
 - Support and retention of excavated faces,
 - Hydrogeological considerations,must be undertaken in accordance with the recommendations of the report 20166Vrpt by Jeffery and Katauskas and all subsequent geotechnical inspections carried out during the excavation and construction phase. Approval must be obtained from all affected property owners, including Ku-ring-gai Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.
46. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Jeffery and Katauskas. Over the course of the works a qualified Geotechnical/hydrogeological Engineer must complete the following:
 - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,

- Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.
47. Under no circumstances shall building materials, demolition waste, fill, soil or any other material from any source be placed or stored within any public reserve.
 48. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
 49. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
 50. Your attention is directed to the operation of the Commonwealth Disability Discrimination Act 1992, which may impose greater obligations on providing access to disabled persons other than compliance with the Building Code of Australia. You are advised to seek advice from the Human Rights and Equal Opportunity Commission (phone (02) 9284 9600) in respect of your application.
 51. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner/s which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.
 52. Removal or pruning of the following trees is not approved as part of this Development Application. A tree report prepared by Earthscape Horticultural Services, dated April 2006, has been submitted. Tree numbers refer to this report.
Tree/Location
Ginkgo biloba (Maiden-hair Tree) Tree 1
Eucalyptus microcorys (Tallowood) Tree 3
Eucalyptus scoparia (Willow Gum) Tree 4

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

Tree/Location	Tree Works
<i>Cupressocyparis x leylandii</i> (Leyland Cypress) Trees 9	Removal
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 10	Removal
<i>Cupressus macrocarpa</i> 'Brunniana' (Golden Cypress) Tree 11	Removal
<i>Araucaria columnaris</i> (Cook's Pine) Tree 12	Removal
<i>Melaleuca</i> sp. (Paperbark) Tree 16	Removal
<i>Lagerstroemia indica</i> (Crepe Myrtle) Tree 19	Removal
<i>Tiboucina granulosa</i> (Lasiandra) Tree 20	Removal
<i>Michelia champaca</i> (Golden Champaca) Tree 21	Removal
<i>Eucalyptus nicholii</i> (Small Leaved Peppermint) Tree 22	Removal
<i>Eucalyptus nicholii</i> (Small Leaved Peppermint) Tree 23	Removal

<i>Agonis flexuosa</i> (Willow Myrtle) Tree 24	Removal
<i>Nerium oleander</i> (Oleander) Tree 26	Removal
<i>Nerium oleander</i> (Oleander) Tree 27	Removal
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 32	Removal
<i>Callitris rhomboidea</i> (Port Jackson Pine) Tree 33a	Removal
<i>Melaleuca styphelioides</i> (Prickly Paperbark) Tree 34	Removal
<i>Pittosporum undulatum</i> (Sweet Pittosporum) Tree 35	Removal
<i>Betula pendula</i> (Weeping Birch) Tree 38	Removal
<i>Cupressus torulosa</i> (Bhutan Cypress) Tree 41	Removal
<i>Cupressus torulosa</i> (Bhutan Cypress) Row of 10 / Tree 42	Removal
<i>Cupressocyparis x leylandii</i> (Leyland Cypress) Tree 44	Removal
<i>Cupressocyparis x leylandii</i> (Leyland Cypress) Tree 45	Removal
<i>Cupressocyparis x leylandii</i> (Leyland Cypress) Tree 46	Removal
<i>Virgilia oroboides</i> (Virgilia) Tree 47	Removal
<i>Lagerstroemia indica</i> (Crepe Myrtle) Tree 52	Removal

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

Tree/location**Time of inspection**

All existing trees located on site being retained	<p>Prior to demolition</p> <p>At the completion of demolition</p> <p>Prior to excavation works</p> <p>At the completion of excavation works</p> <p>Prior to the start of construction works</p> <p>At monthly intervals during construction</p> <p>At the completion of construction works</p> <p>At the completion of all works on site</p>
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55. Canopy pruning of the following tree/s which may be necessary to accommodate the approved building footprint shall be undertaken by an experienced Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate. All other branches are to be tied back and protected during construction as recommended in the arborist report, under the supervision of a qualified arborist.

Tree/Location

<i>Pinus patula</i> (Mexican Pine) Tree 25
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 28
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 29

Lophostemon confertus (Brushbox) Tree 35

Persea Americana (Avocado Pear) Tree 58

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

Tree/Location

Ginkgo biloba (Maiden-hair Tree) Tree 2

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

Tree/Location

Tree Works

Pinus patula (Mexican Pine) Tree 7

Root pruning

Pinus patula (Mexican Pine) Tree 25

Root pruning

Cedrus deodara (Himalayan Cedar) Tree 28

Root pruning

Cedrus deodara (Himalayan Cedar) Tree 29

Root pruning

Liquidambar styraciflua (Liquidambar) Tree 33b

Root pruning

Lophostemon confertus (Brushbox) Tree 35

Root pruning

Lophostemon confertus (Brushbox) Tree 36

Root pruning

Persea americana (Avocado Pear) Tree 58

Root pruning

58. If tree roots are required to be severed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate
59. No mechanical excavation for the approved driveway shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

Tree/Location

Radius From Trunk

Eucalyptus microcorys (Tallowwood) Tree 3

6m

Eucalyptus scoparia (Willow Gum) Tree 4

6m

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

Tree/Location

Radius From Trunk

Pinus patula (Mexican Pine) Tree 7

5m

Pinus patula (Mexican Pine) Tree 25

6m

Cedrus deodara (Himalayan Cedar) Tree 28

8m

Cedrus deodara (Himalayan Cedar) Tree 29

8m

Liquidambar styraciflua (Liquidambar) Tree 33b

7m

Lophostemon confertus (Brushbox) Tree 35

5m

Lophostemon confertus (Brushbox) Tree 36

6m

Persea Americana (Avocado Pear) Tree 58 5m

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

Tree/Location	Radius From Trunk
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<i>Pinus patula</i> (Mexican Pine) Tree 7	5m
<i>Pinus patula</i> (Mexican Pine) Tree 25	6m
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 28	8m
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 29	8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 33b	7m
<i>Lophostemon confertus</i> (Brushbox) Tree 35	5m
<i>Lophostemon confertus</i> (Brushbox) Tree 36	6m
<i>Persea Americana</i> (Avocado Pear) Tree 58	5m

62. The applicant shall ensure that at all times during the site works no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.

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

Tree Species	Quantity
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<i>Eucalyptus microcorys</i> (Tallowood)	2
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64. Following removal of Tree 2 from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council at no cost to Council.

65. 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.

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

Plant Species

Asparagus densiflorus (Asparagus Fern)

Hedera helix (English Ivy)

Tradescantia albiflora (Wandering Jew)

Chlorophytum comosum (Spider Plant)

Ochna serrulata (Ochna)

Jasminum polyanthum (Jasminum)

Nephrolepis cordifolia (Fishbone fern)

67. The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will

be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

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

68. 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.

69. 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).
70. 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.
71. 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.
72. 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 FORTY-NINE (49) ADDITIONAL DWELLINGS IS CURRENTLY \$906,093.62. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1. Community Facilities	\$1,117.76
2. Park Acquisition and Embellishment Works - St Ives	\$6,574.28
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

73. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot

consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.

74. Prior to issue of the Construction Certificate, driveway and associated footpath levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

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

75. The Applicant proposes to carry out the following infrastructure works in the Public Road:
- a. construct a new kerb inlet pit over the existing underground stormwater drainage pipe in Mona Vale Road.

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 and/ or the Roads and Traffic Authority has issued a formal written consent under the *Roads Act 1993*.

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

Construction of the works must proceed in accordance with any conditions attached to the Council *Roads Act 1993* approval.

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

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

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

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

76. Prior to issue of the Construction Certificate the Applicant must submit, for approval by the Principal Certifying Authority, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements clearly dimensioned. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:
- All parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply in full with Australian Standard 2890.1 – 2004 "Off-street car parking".
 - A clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement.
 - No doors or gates are provided in the access driveways to the basement car park which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area.
- The vehicle access and accommodation arrangements are to be constructed in accordance with the certified plans.
77. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document "*Managing Urban Stormwater – Soils and Construction, Volume 1*" (2004). A qualified and experienced

civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47.

78. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:
- Exact location and reduced level of discharge point to the public drainage system.
 - Full layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
 - Location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems. Where proprietary products are to be used, manufacturer specifications or equivalent shall be provided.
 - Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments.
 - Details of the required **on-site detention** tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
 - Details of water quality measures as required by DCP 47 Chapter 8.
 - The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

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

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

and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

80. Prior to issue of the Construction Certificate the applicant must make contact with all relevant utility providers whose services will be impacted upon by the approved development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifying Authority, must be obtained. All utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage must be provided by the developer in accordance with the specifications of those supply authorities.

81. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

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

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

Tree/Location	Radius From Trunk
<i>Pinus patula</i> (Mexican Pine) Tree 7	5m
<i>Pinus patula</i> (Mexican Pine) Tree 25	6m
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 28	8m
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 29	8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 33b	7m
<i>Lophostemon confertus</i> (Brushbox) Tree 35	5m
<i>Lophostemon confertus</i> (Brushbox) Tree 36	6m
<i>Persea Americana</i> (Avocado Pear) Tree 58	5m

83. The submitted landscape plan la-0501/a06 and la-0502/a06 prepared by DEM and dated 4/08/06 is not approved. An amended, detailed plan of the proposed landscape works for the site shall be prepared by a Landscape Architect or qualified Landscape Designer. The plan must be submitted to, and approved by the Principal Certifying Authority, prior to the release of the Construction Certificate. The landscape works shall be carried out and installed in accordance with the approved landscape plan/s.

The following amendments to the plan shall apply:

- > Existing levels are to be retained beneath the canopy drip lines of all trees to be retained on site and adjoining properties. Particular attention is given to Trees 35 and 36 where level changes are proposed.
- > Proposed planting of all canopy trees, to be minimum 5 metres from any building.

- > Plantings of *Eucalyptus saligna*(Sydney Blue Gum) and *Angophora floribunda*(Rough-barked Apple) to be substituted with tree species representative of the Sydney Turpentine Ironbark Forest.
 - > Proposed planting of *Eucalyptus pilularis*(Blackbutt) and *Eucalyptus saligna*(Sydney Blue Gum) where only 6 metre setback of building to be substituted with more upright endemic trees representative of the Sydney Turpentine Ironbark Forest such as *Allocasuarina torulosa*(Forest Oak), *Eucalyptus paniculata* (Grey Ironbark) or *Syncarpia glomulifera*(Turpentine). Plantings of *Eucalyptus pilularis*(Blackbutt) to be restricted to the front setback and larger communal open space areas.
 - > Two additional tall endemic canopy trees, capable of attaining a minimum height of 13m, are to be planted with a minimum spacing of 5m, to Building A along north-eastern site boundary.
 - > Three additional tall endemic canopy trees capable of attaining a minimum height of 13m are to be planted with a minimum spacing of 5m, to Building B along north eastern site boundary
 - > Two additional endemic canopy trees are to be located in the front setback, one in the eastern corner of the site and two to the south of the main entry.
 - > One additional endemic canopy tree is to replace one of the *Michelia champaca* located to the south-east of Tree 58
 - > Proposed planting of 2 *Tristania laurina* and located along the south western elevation of Building A to be substituted with 2 *Syncarpia glomulifera* (Turpentine)
 - > Proposed planting of 2 *Tristania laurina* and 1 *Elaeocarpus eumundii* located along the south-western elevation of Building A to be substituted with *Syncarpia glomulifera* (Turpentine)
84. To maximise landscape amenity for the site, the following private courtyards are to be amended to ensure that proposed screen planting and tree replenishment is within the ownership of the body corporate. The private courtyards are to be reduced in size as detailed by the following;
- The courtyard for Units A102 within the side setback are to not encroach closer than 3.5m to any south-western site boundary. The amended plan must be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.
85. To preserve the ongoing viability of the following trees, the private courtyards to Unit A107 and A106 to be set back a minimum of 4m from trees 35 and 36, as measured from centre of trunk. The amended plan must be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.
- Tree/Location
- Lophostemon confertus* (Brushbox) Tree 35
Lophostemon confertus (Brushbox) Tree 36
86. To preserve the health and condition of the following tree excavation for the driveway ramp is not to be within the specified radius. The amended plan must

be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.

Tree/Location	Radius From Trunk
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<i>Eucalyptus microcorys</i> (Tallowood) Tree 3	4.5m
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87. A CASH BOND/BANK GUARANTEE of \$10 000 shall be lodged with Council as a Landscape Establishment Bond prior to release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan/s and other landscape conditions.

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

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

88. A CASH BOND/BANK GUARANTEE of \$7 500 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location	Bond Value (\$)
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<i>Cedrus deodara</i> (Himalayan Cedar) Tree 28	\$2,500
<i>Lophostemon confertus</i> (Brushbox) Tree 35	\$2,500
<i>Lophostemon confertus</i> (Brushbox) Tree 36	\$2,500

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

89. 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.
90. In order to ensure the development does not detract from the appearance of adjoining buildings and surrounding areas, a schedule of colours and finishes for

all external works shall be submitted to the Principal Certifying Authority and approved in writing prior to the release of the Construction Certificate. All external materials, finishes and colours shall be consistent with the schedule of colours and finishes submitted with the development application. All external surfaces shall be finished to the final satisfaction of the Principal Certifying Authority.

91. Prior to the commencement of any works on site, the applicant must submit for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of the following structures:

- Residence at 220 Mona Vale Road;
- Residence and tennis court at 5a Memorial Avenue.

The report should include a photographic survey of adjoining properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof, structural members and other similar items. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report. Where the consulting geotechnical engineer is of the opinion that no dilapidation reports on adjoining structures are required, certification to this effect shall be provided for approval by the Principal Certifying Authority prior to any excavation. Upon submitting a copy of the dilapidation report to Council (or certification that no report is required), a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

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

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from works. It is in the applicant's and adjoining owner's interest for it to be as detailed as possible.

92. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

A plan view of the entire site and frontage roadways indicating:

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,

- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in the frontage roadways,
- Location of any proposed crane standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible and if not possible, an estimate of the number of on- street parking spaces necessary and an alternative legal on-street location for employee parking.

Traffic Control Plans for the project

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

A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided. Routes for construction vehicles travelling south, or approaching the site from the north are to be indicated.

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

In addition, the plan must address:

- Evidence of RTA concurrence where construction access is provided directly or within 20m of an Arterial Rd.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.

The *Construction Traffic Management Plan* shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation. As the plan has a direct impact on the local road network, the plan shall be

submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. A fee is payable for the assessment of the plan by Ku-ring-gai Council.

93. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. Approval for a Works Zone on Mona Vale Road is not guaranteed and the final decision would rest with the Roads and Traffic Authority.

The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.

94. Prior to the commencement of any works on site the applicant shall submit to Ku-ring-gai Council a full dilapidation report on the visible and structural condition (**including a photographic record**) of the following public infrastructure:
- Half road pavement width, including kerb and gutter, of Mona Vale Road northbound.

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

95. If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council and/or the Roads and Traffic Authority in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all the work that is to be considered and the works are not to commence until approval has been granted. The designs are to include details of the following:
- RTA concurrence to the proposed temporary rock anchors
 - How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road

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

Permanent rock anchors are not to be used where any part of the anchor extends outside the development site into public areas or road reserves.

All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads Act 1993.

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

Tree/Location	Radius in Metres
<i>Ginkgo biloba</i> (Maiden-hair Tree) Tree 1	4.5m
<i>Pinus patula</i> (Mexican Pine) Tree 7	6.2m
<i>Pinus patula</i> (Mexican Pine) Tree 25	6.0m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 33b	7.2m
<i>Persea Americana</i> (Avocado Pear) Tree 58	4.4m

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

Tree/Location	Radius in Metres
<i>Eucalyptus microcorys</i> (Tallowood) Tree 3	6m
<i>Eucalyptus scoparia</i> (Willow Gum) Tree 4	6m

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

Tree/Location	Radius in Metres
<i>Pinus patula</i> (Mexican Pine) Tree 25	6.0m
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 28	6.2m
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 29	6.0m
<i>Lophostemon confertus</i> (Brushbox) Tree 35	7.8m
<i>Lophostemon confertus</i> (Brushbox) Tree 36	9.0m

99. 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.
100. Prior to works commencing tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign shall advise in a clearly legible form, the following minimum information:
1. Tree Protection Zone.
 2. This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.
 3. If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works.
 4. Name, address, and telephone number of the developer.
101. Prior to works commencing the area of the Tree Protection Zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood, The depth of mulch and type as indicated, to be maintained for the duration of the project & Principal Certifying Authority.
102. Upon completion of the installation of the required tree protection measures, the consent holder is required to arrange for an inspection of the site by the Principal Certifying Authority to verify that tree protection measures comply with all relevant conditions. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

103. 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 Regulations.

104. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
105. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structures originally assessed at 220 Mona Vale Road and 5a Memorial Avenue. The report must be completed by a consulting structural/geotechnical engineer. If a structure has been demolished in the meantime under a separate Development Approval then no such report is required.
106. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:
 - New concrete driveway crossing in accordance with levels and specifications issued by Council.
 - Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
 - Full repair and resealing of any road surface damaged during construction.
 - Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

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

107. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88B or 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be

submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

108. Prior to issue of the Occupation Certificate, the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88B or 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.
109. Prior to issue of the Occupation Certificate, the following must be provided to Council (attention Development Engineer):
- A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
 - A copy of any works-as-executed drawings required under this consent
 - The Engineer's certification of the as-built system.
- This condition is required so Council may maintain its database of as-constructed on-site stormwater detention systems, and applies particularly where the appointed Principal Certifying Authority (PCA) is not Ku-ring-gai Council.
110. Prior to issue of an Occupation Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.
111. Prior to issue of an Occupation Certificate, the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:
- That the as-constructed car park complies with the approved Construction Certificate plans,
 - That mirrors are provided where necessary.
 - That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 "Off-Street car parking" in terms of minimum parking space dimensions provided,
 - That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
 - That no doors, gates, grilles or other structures have been provided in the access driveways to the basement car park, which would prevent

unrestricted access for internal garbage collection from the basement garbage storage and collection area.

- That the vehicular headroom requirements of:
 1. Australian Standard 2890.1 - "Off-street car parking",
 2. 2.44m height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement car park.

112. Prior to issue of the Occupation Certificate, a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:

- That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
- That the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.
- That retained water is connected and available for uses including toilet flushing, laundry, car washing and garden irrigation.
- That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
- That all grates potentially accessible by children are secured.
- That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and
- All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

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

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

- As built (reduced) surface and invert levels for all drainage pits.
- Gradients of drainage lines, materials and dimensions.
- As built (reduced) level(s) at the approved point of discharge to the public drainage system.

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

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

114. Prior to issue of the Occupation Certificate, a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.
115. Prior to issue of the Occupation Certificate, a suitably qualified and experienced geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out:
 - According the relevant Australian Standards and guidelines, and
 - According to any approved Geotechnical report undertaken for the development, and
 - In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.
116. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the Report on Geotechnical Investigation by Jeffery and Katauskas Consulting Engineers, and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
117. 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.

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

- Half road pavement width, including kerb and gutter, of Mona Vale Road northbound.

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

119. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Inspections by and documentation from the Arborist to the Principal Certifying Authority is required as specified. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.
120. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.
121. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.

CARRIED UNANIMOUSLY

421 **5 Suakin Street & 986 Pacific Highway, Pymble - Council Works Depot**

File: DA0832/05

Ward: Gordon

To determine development application No 832/05 for the construction of a Council works depot at 5 Suakin Street, Pymble.

Resolved:

(Moved: Councillors Hall/Ryan)

That Council approve the development application in accordance with the recommendations made by the independent planning consultant, K Gordon in the Consultant's Report included in Attachment 1 as follows:

Consultant's Recommendation:

- A. That development application No. 832/05 for the erection of a works depot for use by Ku-ring-gai Council, comprising several buildings and structures to be used as offices, warehouses, workshops, storerooms and for car parking at No. 5 Suakin Street and 986 Pacific Highway, Pymble be granted consent subject to the following conditions.

GENERAL CONDITIONS

1. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

<i>Plan no.</i>	<i>Drawn by</i>	<i>Dated</i>
SK04045-00 – SK04045 -44	Tompkins MDA Architects	30.06.2005
LD.01 – LD.02	Lorna Harrison P/L	14.08.06
<i>Document(s)</i>		<i>Dated</i>
Statement of Environmental Effects – Ku-ring-gai Works Depot Volumes 1 and 2		30 June 2005

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

2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. 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 exceeds \$25,000.00.

5. 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).

6. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and 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.

Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council prior to release of the Construction Certificate. All footpaths and driveways are to be constructed strictly in accordance with Council's specifications "Construction of Gutter Crossings and Footpath Crossings". This is issued with alignment levels after completing the necessary application form at Customer Services and payment of the appropriate fee.

The grading of such footpaths or driveways outside the property are to 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 this may be affected by the alignment levels fixed by Council.

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 (if applicable) of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

7. Driveway crossings shall not encroach over the frontage of an adjoining allotment and crossings shall be at least six (6) metres from the intersection of street alignments in accordance with Australian Standard 2890.1 – 1993 "Off-street car parking"
8. 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 AS 2890.1 – “Off-Street car parking”.

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

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

The Management Plan shall address, but not be limited to, the following matters:

1. Identification of the specific activities that will be carried out and associated noise sources.
2. Identification of all potentially affected sensitive receivers including residences, churches, commercial premises, schools and properties containing noise sensitive equipment.
3. The construction noise objective specified in the conditions of this consent.
4. The construction vibration criteria specified in the conditions of this consent.
5. Determination of appropriate noise and vibration objectives for each identified sensitive receiver.
6. Noise and vibration monitoring, reporting and response procedures.
7. Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities including noise from construction vehicles and any traffic diversions.
8. Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction.
9. Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency.
10. Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency.
11. Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration.
12. Contingency plans to be implemented in the event of non-compliances and/or noise complaints.
13. Compliance with Council’s Code for the Control and Regulation of Noise on Building Sites.

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

10. Submission, for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate, of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document “Managing Urban Stormwater – Soils and Construction” (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.
11. Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.
12. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council’s Tree Preservation Order, located on the subject allotment and adjoining allotments.
13. An amended landscape plan is to be prepared for approval with the Construction Certificate showing:
 - a. The retention of Trees 99, 100 101, 102 and 103 and the deletion of the 7 parking spaces at this location;
 - b. The transplantation of Tree 124 elsewhere on-site; and
 - c. The planting of a suitable replacement street tree between the proposed driveways off Suakin Street.
14. An Impact Assessment and Tree Management Plan in respect of trees to be retained is submitted before issue of a construction certificate. The recommendations of this plan are to form conditions of this consent and are to be carried out prior to, during and after construction on the site.
15. The proposed onsite detention tank is to be modified to increase its storage capacity to 183m³. Details of the modified detention tank is to be provided for approval with the Construction Certificate Application.
16. Works including seven (7) parking spaces and a retaining wall and associated fill of approximately two (2) metres maximum is proposed over the and Easement for Drainage, Cables & Sewer Pipes of variable width benefiting another property. The approval of the proprietor of the

benefited property is to be provided in writing prior to issue of Construction Certificate.

17. Further investigation is to occur in relation to the area surrounding the borehole that showed an elevated level of a benzo(a)pyrene concentration in the soil in the *Environmental Site Screening* report prepared by Environmental Investigation Services dated September 2004. Such investigations are to include recommendations as to required strategies for remediation of contamination as necessary and the required remediation is to be completed prior to the release of the Construction Certificate.

18. *All noise generating equipment associated with any proposed mechanical ventilation system/s, fixed plant or machinery 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 measured at the nearest adjoining boundary.

An acoustic report is to be submitted with the Construction Certificate addressing the noise generation from any fixed plant or machinery (such as air conditioning systems) and necessary mitigation measures.

Testing and certification by a suitably qualified expert indicating the noise emission from the fixed plant or machinery and the operational conditions described in the acoustic report prepared by Renzo Tonin & Associates Pty Ltd, dated 16 February 2005, to ensure the proposed noise attenuation measures satisfy the specified noise criteria within the report.

19. A report addressing any safety issues resultant from the electro-magnetic field emanating from the substation at 982 Pacific Highway and mitigation measures required to satisfy any recognised guidelines for safe human exposure is to be provided for approval prior to the release of the Construction Certificate.
20. The acoustic louvres proposed on the two parking levels of Buildings J and K are to be constructed of a non-reflective material that is complementary to the materials and colours of the proposed buildings.
21. The articulation of the western façade of Building G is to be improved by use of either changes in materials or variations in setbacks to satisfy the DCP controls. Details are to be provided for approval with the Construction Certificate.

22. Amended plans are to be provided for approval with the Construction Certificate showing compliance with the following requirements for bushfire protection:
- a) roofing is to be gutterless or have leafless guttering and valleys are to be screened to prevent the build up of flammable materials;
 - b) access is to comply with section 4.3.2 of *Planning for Bushfire Protection 2001*;
 - c) access is to be provided to the rear of the property for fire fighting purposes;
 - d) Reticulated water supply is to comply with AS2419 and the locations of fire hydrants are to be delineated by blue pavement markers in the centre of the road; and
 - e) All fencing is to be constructed of non-combustible materials.
23. Dilapidation reports are to be carried out for adjoining properties where excavation of more than 0.5m is proposed within 3m of any building on an adjoining property. Ongoing monitoring of vibration during rock excavation works is to be carried out and any damage to structures on adjoining properties is to be repaired at the cost of the developer.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

24. 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.
25. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
26. 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.
27. *If the work involved in the erection or demolition of a building:*
- a. *is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or*
 - b. *building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.*

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

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

28. To reduce or eliminate the transport of sediment from the construction site onto public roads, a temporary construction exit, together with necessary associated temporary fencing, shall be established prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.
29. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s 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.

Tree/Location

Trees 22, 23, 26, 40, 41, 44, 45, 67, 71-73, 75, 78, 83-89, 91-93, 99, 100, 101, 102 and 103

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

30. **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 rivetting 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.

31. 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. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of AUS-SPEC.

Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust

AS1742-3 1996 *“Traffic Control Devices for Work on Roads”*.

If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

32. 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.
33. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%) capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.
34. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
35. To prevent pollution, any areas cleared of vegetation where there is a flowpath greater than 12.0 metres in length shall have a properly constructed silt fence erected to intercept runoff.
36. Topsoil shall be stripped from areas to be developed and stock-piled within the site. Stock-piled topsoil on the site shall be located outside drainage lines and be protected from run-on water by suitably positioned diversion banks. Where the period of storage will exceed 14 days stock-piles are to be sprayed with an appropriate emulsion solution or seeded to minimise particle movement.
37. 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.
38. The two vehicle access driveways on Suakin Street are to be constructed in accordance with the requirements in Figure 3.1 in AS 2890.2-2002.
39. Excavated topsoil is to be re-used on-site during the carrying out of the landscaping.
40. During demolition and excavation works the site should be inspected by experienced environmental personnel to assess any unexpected conditions or subsurface facilities. Any unexpected problem areas between the

boreholes that are found to contain USTs or buried items or contaminated material during construction should be immediately inspected by experienced environmental personnel. The experienced environmental personnel is to provide certification that the site does not contain any unacceptable levels of contamination prior to the erection of any building.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

41. Prior to issue of the Final Compliance Certificate or the issue of a Subdivision Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer. Reinstatement works to generally match surrounding infrastructure. 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, at the Applicants cost.
42. *To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the Occupation Certificate.*
43. Landscape works shall be carried out in accordance with *Landscape Plan Sheets 1 & 2; LD01-LD02*; 14 August 2006 by Lorna Harrison Pty Ltd submitted with the Development Application. The landscape works shall be completed prior to issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.
44. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Sydney Water Coordinator, for details see Sydney Water web-site www.sydneywater.com.au/customer/urban/index or telephone 13 20 92.

Following application a "Notice of Requirements" will be forwarded detailing 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.

The Section 73 Certificate must be submitted to Council prior to release of the Occupation Certificate.

45. Noxious and/or undesirable plant species shall be removed from the property 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 Occupation Certificate.

46. The entire site is to be managed as an 'Inner Protection Area' as detailed in section 4.2.2 of *Planning for Bushfire Protection 2001*.

CONDITIONS TO BE SATISFIED ON AN ONGOING BASIS

47. The hours of operation are to be restricted to:

Monday to Friday (7.00am – 6.00pm)
Saturday (7.00am-4.00pm)
Sunday and Public Holidays (Nil)

Exceptions to the above hours of operation are permitted to respond to emergencies.

48. Signage on the site is to be limited to identification signage at each street frontage indicating the street address, name of the building and/or use of the building.

- B. That Council write to the Roads and Traffic Authority requesting they consider permitting right turns from Bridge Street to Pacific Highway and inclusion of a pedestrian crossing phase in the traffic signal to assist pedestrians crossing the Highway.

CARRIED UNANIMOUSLY

*Standing Orders were suspended in order
to deal with items where there are speakers first
moved by Councillors Ryan & Lane was
CARRIED UNANIMOUSLY*

422

1 Ray Street, Turramurra - Alterations & Additions to an Existing Supermarket (Coles), Basement Car Parking (92 Spaces) & Signage

File: DA0581/06

Ward: Comenarra

Applicant: Charny Holdings Pty Ltd

Owner: Charny Holdings Pty Ltd

The following members of the public addressed Council:

S Astey

T Owen

A Parr
V Harris
S Wesley

To determine development application No 581/06 which seeks consent for the expansion of an existing supermarket.

Resolved:

(Moved: Councillors Andrew/Lane)

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979, THAT the Council, as the consent authority, refuse development consent to DA 581/06 for alterations and additions to existing supermarket including provision of basement car parking (92 spaces) and signage on land at 1 Ray Street, Turramurra, for the following reasons:

Ku-ring-gai Planning Scheme Ordinance

1. The development fails to satisfy the objectives of the Business 3(a)-(A2) Retail Services zone under Part 4 of the Ku-ring-gai Planning Scheme Ordinance (KPSO). The proposed supermarket expansion will have a long term cumulative traffic impact on future retail and residential development which will take place in the Turramurra Town Centre. The development does not meet the future community and retail demands of the business centre. The development does not satisfy the Zone 3(a) objectives.
2. The development fails to satisfy the development considerations under Clause 30C(e)(h) & (i) under the KSPO. The additional traffic generated by the supermarket expansion will exacerbate existing delays on Ray Street and will adversely affect the safety and amenity of the locality between Ray Street, Forbes Lane and William Street. The proposal to retain the existing reverse entering arrangement to the loading dock is undesirable as it will exacerbate existing vehicle conflicts and reduce pedestrian safety in Forbes Lane.
3. The development does not adequately enhance the streetscape and fails to satisfy Clause 30(j) under the KPSO. The proposal presents bulky blank walls to Ray Street, Forbes Lane and to the eastern façade, limiting opportunity for active street life. The proposal does not include design measures for improving pedestrian safety and security.

Development Control Plan 14 – Development in Business Zones

4. The development fails to satisfy Clause 17 (Vehicular access and circulation) specifically Clauses 17.6 and 17.8 and 17.9 under DCP 14. The proposal to retain the existing reverse entering arrangement to the loading dock is undesirable as it will exacerbate existing vehicle conflicts and reduced pedestrian safety in Forbes Lane.

5. The development is unsatisfactory in relation to Clause 21 (Urban Design) under DCP 14. The proposal presents bulky blank walls to Ray Street, Forbes Lane and to the eastern façade, limiting opportunity for active street life and safe pedestrian access to the surrounds of the building. The development does not adequately enhance the streetscape.

SEPP 64 & Development Control Plan 28 – Advertising Signs

6. The application fails to address the provisions of SEPP 64 and DCP 28 (Advertising Signs). Inadequate information has been submitted to enable a proper assessment in relation to the respective planning controls. Details regarding illumination/non-illumination, external colours and finishes, and the height of signage above ground level have not been provided.

Draft Local Environmental Plan 2006 (Amendment No.1) Turramurra Town Centre

7. The proposal is inconsistent with the aims under Clause 2 of Draft LEP (Amendment No.1) and is not compatible with the future character for Turramurra Town Centre. The building does not exhibit high quality architectural design. The development presents bulky blank walls to Ray Street, Forbes Lane and the eastern façade of the building. This will prohibit active street life which is encouraged within the Turramurra Town Centre. The proposal is likely to preclude other sites within the draft LEP from providing residential flat buildings and shop-top housing due to the cumulative traffic impacts. The proposal does not include design measures for improving pedestrian safety and security in Forbes Lane and Ray Street.
8. The development fails to comply with the maximum retail floor space ratio (FSR) requirements for the site and fails to satisfy the objectives of the floor space ratio restrictions under Clause 22 of the Draft LEP. The Draft LEP limits retail FSR within the subject site to a maximum of 0.55:1 in order to ensure the long term function of local traffic, especially the Ray Street/Pacific Highway intersection. Having regard to the traffic impacts associated with the supermarket expansion, a variation to the FSR requirement is not supported.

Draft Development Control Plan 2006 – Turramurra Town Centre

9. The development is in-consistent with the overall master plan envisaged for Precinct A under Part 4 (Primary Development Controls) of the Draft DCP. The proposal will limit opportunity for road widening to Forbes Lane to improve access to Turramurra Station for pick-up and drop-off and pedestrian efficiency and connection. The proposal does not include design measures for improving pedestrian safety and security in Forbes Lane and Ray Street.

Likely impacts

10. A. The development fails to satisfy Section 79C(1)(b) under the Environmental Planning and Assessment Act 1979 in that the development

will result in unacceptable long term cumulative traffic impacts within the locality and is not consistent with the desired future character of the Turramurra Town Centre.

10. B. The proposed development's adverse impact on traffic in Ray Street and at the intersection with the Pacific Highway as provided by the Sydney Regional Traffic Generating Development Committee in the RTA advice.

Suitability of the site

11. The development fails to satisfy Section 79C(1)(c) under the Environmental Planning and Assessment Act 1979. The site is not suitable for the proposed supermarket expansion in that the additional traffic generated will exacerbate existing delays on Ray Street and will adversely affect the safety and amenity of the locality between Ray and William Street.

Public interest

12. The development fails to satisfy Section 79C(1)(e) under the Environmental Planning and Assessment Act 1979 in that the proposal is not in the public interest.

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

Against the Resolution: Councillors Bennett, Cross, Malicki & Shelley

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

(Moved: Councillors Bennett/Shelley)

That Council's Officers meet with the Applicant to ascertain what changes they are prepared to make to deal with Council's issues of traffic, design and safety and report to Council.

423

245 to 247 Bobbin Head Road, North Turramurra - Demolition & Construction of a Commercial Building containing Ground Floor Mini Market, First Floor Office Space, Employee Car Parking & Signage

File: DA0509/06

Ward: Wahroonga

Applicant: Mr Andrew Chriss c/- SPD Town Planners

Owners: Terry and Toula Chriss

The following members of the public addressed Council:

G Slattery

P Armstrong

G Smith

To determine development application No 509/06 which seeks consent for the demolition of existing structures and construction of a two storey commercial development with basement level for a mini market at ground level and two offices at the first floor.

Resolved:

(Moved: Councillors Hall/Shelley)

That the Council defer this Development Application to permit the Staff to enter into discussions with the Applicant in respect of the potential to make a voluntary agreement to assist Council with parking and/or other infrastructure within the North Turramurra Centre.

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

Against the Resolution: Councillors Andrew, Bennett, Cross & Malicki

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

(Moved: Councillor Cross/Lane)

THAT the Council, as the consent authority, grant development consent to DA 0509/06 for demolition and construction of commercial building containing ground floor mini market/ office space, car parking and signage on land at 245 to 247 Bobbin Head Road, Turramurra for a period of two (2) years from the date of the Notice of Determination subject to the following conditions:

GENERAL CONDITIONS

- 1. The development to be in accordance with Development Application No 509/06 and Development Application plans drawn by **The Architecture Company**, reference number **DA02A, DA03A, DA04A and DA05A**, dated **January 2006** and received by Council on **29 May 2006**.*
- 2. All building works shall comply with the building code of Australia.*
- 3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that authority's by-laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.*

4. *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 a Occupation Certificate has been issued.*
5. *The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.*
6. *For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.*
7. *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.*
8. *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.

9. *For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted 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.*
10. *A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.*
11. *All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.*

12. *The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.*
13. *If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:*
- a. must preserve and protect the building from damage, and*
 - b. if necessary, must underpin and support the building in an approved manner, and*
 - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.*

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

In this clause, allotment of land includes a public road and any other public place.

14. *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.*
15. *If the work involved in the erection or demolition of a building:*
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or*
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.*

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

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

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

16. *The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.*
17. *Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.*
18. *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.*
19. *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.*
20. *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.
21. *Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.*
22. *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.

23. *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.*
24. *The hours of operation are to be restricted to:*
- Monday to Friday 8.00am - 7.00pm*
 - Saturday, Sunday 8.00am – 7.00pm*
25. *A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment (Amendment) Regulation 2000, before a final occupation certificate can be issued for the building.*
- A copy of the Fire Safety Certificate and Fire Safety Schedule shall be*
- Forwarded to Ku-ring-gai Council;*
 - If required forwarded to the Commissioner of the New South Wales Fire Brigade; and*
 - Prominently displayed in the building.*
26. *Pursuant to Part 9, Division 5 of the Environmental Planning and Assessment Regulations (as amended) the owner of the building shall furnish to Council with an annual Fire Safety Statement from a competent person to certify the essential fire safety measures in the building. The Annual Fire Safety Statement shall be within 12 months of the issue of the fire safety certificate, and then on an annual basis.*
27. *Stormwater runoff from all new impervious areas and subsoil drainage systems must be piped to the street drainage system. New drainage line connections to the street drainage system must conform and comply with the requirements described in sections 5.3 and 5.4 of Ku-ring-gai Council Water Management Development Control Plan 47. The Applicants*

attention is directed to the requirements for obtaining a Road Opening Permit for excavating in the road reserve.

28. *A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The (minimum) total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).*
29. *In addition to the mandatory rainwater retention and re-use system provided, an **on-site stormwater detention** system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.*
30. *Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.*
31. *All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.***
32. *The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on*

the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

33. *Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".*

34. *A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure. Geotechnical aspects of the development work, namely:*

- Appropriate excavation method and vibration control,*
- Support and retention of excavated faces,*
- Hydrogeological considerations,*

*Must be undertaken in accordance with the recommendations of the **Geotechnical Report (No. 11027/1-AA dated 21/3/06)** prepared by **Geotechnique Pty Ltd** and all subsequent geotechnical inspections carried out during the excavation and construction phase. Approval must be obtained from all affected property owners, including Ku-ring-gai Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.*

35. *All work in relation to construction, fitting out and finish of the food preparation, storage and retail areas is to comply with the Food Act 2003, Food Regulations 2004, Food Standards Code (Food Safety Standards) and Australian Standard AS4674-2004, Design, Construction and Fitout of Food Premises.*
36. *Garbage and recycling facilities shall be provided in accordance with the requirements of Development Control Plan No 40. The facilities to be provided shall be quantified by the provision of a Waste Management Plan.*
37. *The premises shall be ventilated in accordance with Part F4 of the Building Code of Australia and Australian Standards 1668 Parts 1 and 2.*
38. *All noise generating equipment used on the site shall not give rise to an offensive noise as defined in the Protection of the Environment Operations Act 1997. All equipment shall be provided with suitable sound attenuation equipment designed by a qualified practising Acoustic Engineer so that when in operation the background sound pressure levels are not exceeded when measured at the nearest residential boundary.*

39. *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.*
40. *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.*
41. *Prior to the commencement of any works on site and prior to issue of the Construction Certificate the applicant must submit, for review by Council Engineers, a Parking and Delivery Management Plan specific to the subject site. This is due to the location of the development site near a school, shopping centre or other location of heavy pedestrian generation. 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:*

Safe ingress and egress

- a. *How the site will be safely accessed by all vehicles servicing the site. This should include provision of forward ingress and egress and details of traffic control for the site, and provisions for a flagperson if required to control vehicle movements to and from the site.*
- b. *How safe egress for vehicles will be managed where forward egress is not possible.*

Staging of works

- a. *The Parking and Delivery Management Plan must recognise the different stages of the work, including site establishment, excavation, concrete pours and tradesperson and landscaper access, and specify the parking and delivery management requirements of each stage.*

The parking and delivery management plan must be submitted to and approved by Council, attention Development Engineer, prior to the commencement of any demolition, land clearing, excavation or construction works. A minimum of two (2) weeks will be required for assessment.

All traffic management measures contained in the approved plan shall be implemented in accordance with the approved plan at the necessary stages. Failure to do so may result in fines and proceedings to stop work. The plan must make provision for all construction materials to be stored on site at all times during the works.

42. *Prior to the commencement of any works on site and prior to issue of the Construction Certificate 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. 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 flagperson 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 will be safely managed across the frontage of the site.*

Parking control

- a. The provision of on-site parking for employee, tradesperson and construction vehicles.*
- b. Establishment of a no-parking zone for the full frontage of the site prohibiting on-street parking during the relevant morning and afternoon peak periods where located on main or arterial roads, or during school peak periods where located near schools or full time where located near shopping centres.*

RTA concurrence

- a. Evidence of consultation with and concurrence of the RTA for the Traffic Control Plan where the site is located on an arterial 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.

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

43. *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.

44. *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.*

45. *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.
46. The payment to Council of a contribution for Child Care Facilities in accordance with the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 and Ku-ring-gai Municipal Council's Section 94 Contributions Plan No 1. Such contribution is calculated as \$7346.00 and is to be paid prior to the issue of a Construction Certificate. 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. The levy is based on:
- * \$24.70 per additional square metre of commercial/office floorspace.
 - * \$9.90 per addition square metre of retail floor space.
47. Prior to issue of the Construction Certificate, driveway and associated footpath levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

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

48. *Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document "Managing Urban Stormwater – Soils and Construction, Volume 1" (2004). A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47.*
49. *Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:*
- *Exact location and reduced level of discharge point to the public drainage system.*
 - *Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, pits, grated drains, swales, kerbs, flushing facilities, subsoil drainage and all ancillary plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).*
 - *Location(s), dimensions and specifications for the required rainwater storage and reuse tank systems. Where proprietary products are to be used, manufacturer specifications and details must be provided.*
 - *Details of any required on-site detention tanks required under Kuring-gai Council Water Management DCP 47 including dimensions, materials, location, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 for volume, PSD and design requirements).*

*The above construction drawings and specifications are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the BCA. The plans may be generally based upon the **Stormwater Drainage Plan206-427 Dwg. H-01 Rev. 'B' & H-02 Rev. 'A'** prepared by **Greenarrow hydraulics Pty Ltd** submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.*

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

50. *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.*

51. *Prior to the commencement of any works on site the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Geotechnical/Civil Engineering report which addresses (but is not limited to) the following:*
- a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum.*
 - b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations shall be discussed and ameliorated.*
 - c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site).*
 - d) The existing groundwater levels in relation to the basement structure, where influenced.*
 - e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flowpath is constructed, artificial drains such as perimeter drains and through drainage may be utilised.*
 - f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.*

The geotechnical report must be prepared by a consulting geotechnical / hydrogeological engineer with previous experience in such investigations and reporting. It is the responsibility of the engaged geotechnical specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report shall contain site specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate. The design principles for the geotechnical report are as follows:

- No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.*
- No changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.*
- No changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.*
- Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.*
- Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles.*
- An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table C1 of AS 2870 - 1996.*

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

- 52. 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.*
- 53. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:*

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

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

54. *Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.*
55. *Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The*

relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

56. *Prior to issue of the Occupation Certificate the following must be provided to Council (attention Development Engineer):*
- a) *A copy of the approved Construction Certificate stormwater detention/retention design for the site, and*
 - b) *A copy of any works-as-executed drawings required under this consent*
 - c) *The Engineer's certification of the as-built system.*

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

57. *Prior to issue of the Occupation Certificate any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.*
58. *Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:*
- a) *That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.*
 - b) *That the minimum retention and on-site detention volume storage requirements of Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.*
 - c) *That the drainage system has been installed by a licensed contractor in accordance with the Plumbing and Drainage code AS3500.3 (2003) and the BCA.*
 - d) *That all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.*

The rainwater retention certification sheet contained at appendix 13 of Ku-ring-gai Council Water Management DCP 47 must be completed and

attached to the certification. Where an on-site detention system has been constructed, the on-site detention certification sheet contained at appendix 4 of DCP 47 must also be completed and attached to the certification.

59. *Prior to issue of the Occupation Certificate a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.*
60. *Prior to issue of the Occupation Certificate a suitably qualified and consulting geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out:*

- * According the relevant Australian Standards and guidelines, and*
- * According to any approved Geotechnical report undertaken for the development, and*

In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.

**Council adjourned for a short interval
after a Motion moved by Councillors Ryan & Shelley was CARRIED
and the Chairperson ruled accordingly.**

The meeting resumed at 10.30pm

Those present were:

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

424

Code of Conduct Committee Findings - Report Card March 2005

File: S04462

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

To table findings from the Conduct Committee relating to a Report Card issued on the Mayor's Performance in March 2005.

Resolved:

(Moved: Councillors Lane/Hall)

That Council note the recommendation from the Conduct Committee and that no further action be taken.

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

Against the Resolution: Councillors Bennett, Malicki & Shelley

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

(Moved: Councillors Malicki/Bennett)

- A. *In the interests of treating all Councillors fairly and equally I move that this complaint not be proceeded with further on the basis that all other complaints lodged prior to Council's Code of Conduct training were withdrawn by Councillors as a gesture of goodwill.*
- B. *Where a member of the committee has declared a conflict or perceived conflict of interest that person may not sit on the Code of Conduct Committee for the particular item.*

**At 11.50pm a Motion moved by Councillors Bennett & Cross
to extend the meeting until
all business completed was put to the vote and
CARRIED UNANIMOUSLY**

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

425 **Land between Beechworth Road, Pymble & Warragal Road, Turramurra**

File: S04082

The following members of the public addressed Council:

B Ferguson

A Parr

D Hawes

Notice of Motion from Councillor I Cross dated 16 October 2006.

I move the following:

- “A. That the Department of Planning be advised of Council’s decision to prepare a draft Local Environmental Plan in accordance with Section 54 of the Environmental Planning and Assessment Act 1979.
- B. That the Draft Local Environmental Plan provide for rezoning the lands at 1234-1274 Pacific Highway, Pymble/Turramurra and 1 Beechworth Road, Pymble to 2(d3).
- C. That upon receipt of Department of Planning support a draft Local Environmental Plan be prepared in consultation with statutory authorities under the provisions of Section 62 of the Environmental Planning and Assessment Act 1979. Section 62 notification should also include formal notification to the NSW Department of Environment and Conservation and also to the Commonwealth Department of Environment and heritage with regard to ecological issues on and adjacent to the site
- D. That a report be brought back to Council following the Section 62 consultation process for Council to consider whether to proceed to exhibition of the draft local Environmental Plan.
- E. That the applicant and owners be notified of Council’s decision.”

Resolved:

(Moved: Councillors Cross/Lane)

That the above Notice of Motion as printed be adopted.

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

Against the Resolution: Councillors Andrew, Bennett, Malicki & Anderson

The above Resolution was subject to two LOST Amendments.

The first LOST Amendment was:

(Moved: Councillors Andrew/Bennett)

That this item be considered as part of the comprehensive LEP.

The second LOST Amendment was:

(Moved: Councillors Bennett/Anderson)

That Heritage studies be carried out on those properties identified as potential heritage items before any notification is sent out to the Department in accordance with Councillor Cross' Notice of Motion.

GENERAL BUSINESS (cont)

Councillor Bennett withdrew

426

Town Centres Planning - Extraordinary Meetings of Council

File: S04151

To request Council to hold five extraordinary meetings in November and December 2006 to allow Council to consider the finalisation and adoption of the town centre plans for St Ives, Turramurra, Gordon, Roseville and Lindfield and to schedule consideration and adoption of the Pymble Plan.

Resolved:

(Moved: Councillors Cross/Shelley)

- A. That an Extraordinary Meeting of Council be held on Wednesday, 8 November 2006 to consider the finalisation and adoption of the St Ives Town Centre Plan.
- B. That an Extraordinary Meeting of Council be held on Monday, 13 November 2006 to consider the finalisation and adoption of the Turramurra Town Centre Plan.
- C. That an Extraordinary Meeting of Council be held on Thursday, 30 November 2006 to consider the finalisation and adoption of the Gordon Town Centre Plan.
- D. That the Ordinary Meeting of Council on Tuesday, 28 November 2006 consider, as the first item on the agenda, the finalisation and adoption of the Pymble Town Centre Plan.

- E. That an Extraordinary Meeting of Council be held on Monday, 18 December 2006 to consider the finalisation and adoption of the Roseville Town Centre Plan.
- F. That an Extraordinary Meeting of Council be held on Tuesday, 19 December 2006 to consider the finalisation and adoption of the Lindfield Town Centre Plan.

CARRIED UNANIMOUSLY

Councillor Bennett returned

**All Directors of Council declared
a conflict of interest in respect of the following item -
Review of Organisation Structure
and withdrew from the Chamber
during the discussion**

427 **Review of Organisation Structure**

File: S05027

To present an organisational structure that addresses current and future issues facing the organisation.

Resolved:

(Moved: Councillors Shelley/Bennett)

- A. That Council adopts the proposed structure as shown in the Future Directions Option attached to the report.

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

Against the Resolution: Councillors Bennett & Malicki

The above Resolution was CARRIED as Part A of the Amendment to the Original Motion. The Original Motion was:

(Moved: Councillors Hall/Lane)

That Council adopts the proposed structure as shown in the Future Directions Option attached to this report.

The LOST Part B of the Amendment was:

- B. That Council advertise the directorates of Corporate and Strategy.*

All Directors of Council returned

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

428 **Cycle Path - St Ives to Showground - Examination by Traffic Committee**

File: S02673

Notice of Motion from Councillor T Hall dated 16 October 2006.

I move:

"That the Ku-ring-gai Traffic Committee be urgently requested to examine and report on the feasibility of a dedicated bicycle/pedestrian path parallel to Mona Vale Road, St Ives between Richmond Avenue East and the Ku-ring-gai Council/Warringah Council border and whether State/Federal government funds can be sourced to meet part of the costs due to the main road classification and serious traffic safety issues involved.

"A similar path was established between Kissing Point Road, South Turramurra, a non-classified road, and Browns Waterhole Reserve on the border with Ryde Council, met partly from State Government grant funding.

"I further move that Mr James Tredinnick of 308 Mona Vale Road, St Ives be thanked for his contribution to enhance local residents' quality of life and in the interests of road safety."

I move the motion be adopted.

Resolved:

(Moved: Councillors Hall/Lane)

That the above Notice of Motion as printed be adopted.

CARRIED UNANIMOUSLY

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION

*The following item was dealt with after a
Motion moved by Councillors Hall & Lane
to have the matter dealt with at the meeting was
CARRIED UNANIMOUSLY & the
Chairperson ruled Urgency*

429 2006 Local Government Conference - Leura

File: S05493

Councillor Hall advised that due to work and family commitments, he would not be able to attend the entire Local Government Conference at Leura.

Resolved:

(Moved: Councillors Hall/Lane)

That Councillor Ryan attend the 2006 Local Government Conference at Leura as the alternate voting delegate to Councillor Hall.

CARRIED UNANIMOUSLY

QUESTIONS WITHOUT NOTICE**430 Concerns raised by Mr Ross Magee - Address to Council**

File: S04096

Question Without Notice from Councillor J Anderson

Could the General Manager investigate the concerns raised this evening by Mr Ross Magee in his address to Council regarding problems faced by residents during the Gordon exhibition and that Council receive a report on the matter?

Answer by the General Manager

Yes.

431 Administrative Decisions Judicial Review Act - Whether applies to Council & to Council's Decisions

File: S02211, S02554

Question Without Notice from Councillor M Shelley

Would the General Manager check whether the Administrative Decisions Judicial Review Act or its equivalent applies to the Council and to the decisions of the Council?

Answer by the General Manager

I will.

432 **Blue Parallel Lines on Roads**

Files: 88/06184/01, 88/05096/01, 88/05480/04, 88/05717/04

Question Without Notice from Councillor M Shelley

1. Would the Director of Technical Services investigate and advise which organisation is responsible for the parallel blue lines on Wandella Avenue, Bancroft Street, Glencroft Street, Lord Street and Martins Lane in Roseville?
2. Would the Director advise which utility is responsible, what they plan to do, what disruption to traffic will result, over what period and what traffic management plan will be in place to address any disruption?

Answer by the Director Technical Services

I will.

433 **Site Inspection - Beechworth Road, Pymble to Warragal Road, Turramurra**

File: S04082

Question Without Notice from Councillor E Malicki

Can we hold the site inspection resolved previously for the Beechworth to Warragal area please?

It was for interested Councillors, and I for one am interested.

Answer by the Director Open Space & Planning

I have no objection to holding a site inspection if Councillors would like to attend & I will arrange one.

434 **Cost to Council - Code of Conduct Complaint by a Councillor**

File: S02554

Question Without Notice from Councillor E Malicki

What was the cost to Council of handling Councillor Hall's Code of Conduct Complaint against Councillor Bennett and myself?

It was 19 months old and the only complaint from the period not withdrawn.

Answer by the General Manager

I am happy to look at the costs of it but I think the costs, is more in terms of internal resources - that's pretty hard to estimate.

The Meeting closed at 1.35am

The Minutes of the Ordinary Meeting of Council held on 24 October 2006 (Pages 1 - 74) were confirmed as a full and accurate record of proceedings on 14 November 2006.

General Manager

Mayor / Chairperson