

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 27 JULY 2004

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

Staff Present: General Manager (Brian Bell)
Director Environment & Regulatory Services (Michael Miocic)
Manager Development Assessment Services (Matthew Prendergast)
Director Planning (Leta Webb)
Director Technical Services (Greg Piconi)
Director Open Space (Steven Head)
Director Community Services (Janice Bevan)
Acting Director Finance & Business (Mellissa Crain)
Senior Governance Officer (Geoff O'Rourke)
Office Co-ordinator/WP (Casey Locke)

The Meeting commenced at 7.00pm

The Mayor offered the Prayer

APOLOGIES

NOTE: Councillor G Innes had previously been granted leave of absence from this Council meeting (see Minute No 348).

DECLARATION OF PECUNIARY INTEREST

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

The Mayor, Councillor A Ryan and Councillor M Lane declared a pecuniary interest in item GB.6 – Application to Amend Ku-ring-gai Planning Scheme Ordinance Regarding 657-661 Pacific Highway, Killara (financial contributions to election campaign).

DOCUMENTS CIRCULATED TO COUNCILLORS

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

Refers GB.1: 4 Munderah Street, Wahroonga – Memorandum from Director Environment & Regulatory Services dated 27 July 2004

Refers GB.7: Revised Draft Development Control Plan No 55 – Multi-Unit Housing – Memorandum from Director Planning dated 27 July 2004

CONFIRMATION OF MINUTES

349 Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 20 July 2004

Minutes numbered 321 to 348

Resolved:

(Moved: Councillors Shelley/Cross)

That Minutes numbered 321 to 348 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting, with the exception of Minutes numbered 328 and 344.

CARRIED UNANIMOUSLY

350 General Matter – Federal Office of Road Safety National Black Spot Program

File: S03476

Vide Minute No 328

Resolved:

(Moved: Councillors Malicki/Hall)

That confirmation of the accuracy of Minute No 328 be deferred to allow the tape to be checked.

CARRIED UNANIMOUSLY

351 Inappropriateness of Site Cover – Discussion with Minister

File: S02973

Resolved:

(Moved: Councillor Malicki/Andrew)

That confirmation of the accuracy of Minute No 344 be deferred to allow the tape to be checked.

CARRIED UNANIMOUSLY

PETITIONS

352

Petition for Lights at Bicentennial Park Off-Leash Area (Seventy-Five [75] Signatures)

File: S02243

The following Petition was presented by Councillor Malicki:

Pauline passed your email correspondence to me because she was going on holiday. I have collected a petition in support of installing lights at the Bicentennial Park off-leash area.

Most of the signatories are regular users and believe lighting is necessary, especially during the winter months when the days are short. We feel that the area needs to be lit for just a couple of hours each evening to give people time after work to exercise their dogs.

We also believe that lighting is essential from a personal safety perspective. Some dog owners expressed to me that they will not use the area after dark because they do not feel safe enough to do so. The park does not receive much light from either the adjoining oval, which is lit some nights during the week, or from the street lights on Yanko Road. As a result, the area starts to become dark when the sun begins to set.

The off-leash area at Bicentennial Park has been quite a success. It is a popular place that, due to its fully-fenced perimeter, provides a safe exercise area for dogs and gives peace of mind to dog owners. In addition, the area offers a convenient place for dog owners to socialise and strike up friendships, and sometimes even meet their neighbours.

Please find enclosed the abovementioned petition. I have also enclosed a copy of an article that my neighbour wrote recently for the Sydney Morning Herald. I would be grateful if our request for lighting would be taken into consideration by Council.

Resolved:

(Moved: Councillors Malicki/Lane)

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

CARRIED UNANIMOUSLY

GENERAL BUSINESS

353 **Lady Game Drive - Transport Infrastructure Development Corporation - Freehold and Leasehold Compulsory Acquisition**

File: S02026

To advise Council of the divestment status of various parcels of land subject to freehold and leasehold compulsory acquisition by the Transport Infrastructure Development Corporation (formally the Parramatta Rail Link) and to seek Council's approval to sell/lease the land.

Resolved:

(Moved: Councillors Shelley/Cross)

- A. That Council approves the divestment of freehold and leasehold land in favour of Transport Infrastructure Development Corporation details of which are contained in this report.
- B. That Council accept a lump sum offer of \$150,000 in full settlement of all claims.
- C. That Council authorise the Mayor and General Manager or their delegates to sign all necessary documents associated with the transfer of this land.
- D. That Council authorise the affixing of the Common Seal of Council to all documents necessary for the transfer of this land.
- E. That the funds of \$150,000 be transferred into Council's Property Reserve.

CARRIED UNANIMOUSLY

354 **60A Clanville Road, Roseville - Firs Estate Cottage – Briefing**

File: P39240

To brief Council on the present situation regarding the proposed lease of Firs Estate Cottage 60A Clanville Road, Roseville.

Resolved:

(Moved: Councillors Cross/Ebbeck)

- A. That Council approve repairs and maintenance of the Firs Estate Cottage 60A Clanville Road, Roseville at an estimated cost of \$93,000. These funds to be secured from the property reserve and repaid from subsequent income as previously resolved by Council.
- B. That Council approve the issue of a fresh Expression of Interest for the use of Firs Estate Cottage as a Café.
- C. That a report be brought back to Council on the outcome of the Expressions of Interest.

CARRIED UNANIMOUSLY

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

Councillor Hall withdrew

355

**213 Kissing Point Road, Turramurra - Installation of a Host
Telecommunications Flag Pole Structure at 213 Kissing Point Road, Turramurra**

File: DA1619/03

Ward: Comenarra

Applicant: Hutchison Telecommunications Australia Pty Ltd, c/- Greg Wilson, J G Service Pty Ltd

Owner: Thurling Petroleum Pty Ltd

The following members of the public addressed Council:

J Crompton

B Lewis

To determine DA 1619/03, for erection of a thirty (30) metres high host telecommunications flag pole structure at the BP service station at 213 Kissing Point Road, Turramurra. This matter has been referred by the Director Environment & Regulatory Services

Resolved:

(Moved: Councillors Andrew/Malicki)

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

That Council, as the consent authority, refuse development consent to Development Application No. 1619/03 for erection of a thirty (30) metres high host telecommunications flag pole structure at the BP service station at 213 Kissing Point Road, Turramurra, as shown on plans numbered A01, A02 & A03 all revision A, dated 15/9/03 and drawn by Sinclair Knight Merz, for the following reasons:

1. Visual impact

The proposed development results in an unsatisfactory impact upon the visual character of the area on the basis that the erection of a 30m high flag pole structure will be a visually foreign element within a typically low scale built environment.

2. Objectives of the Zone

The erection of a 30m high telecommunications pole is contrary to the objectives of the Business 3(a) Zone in that this structure and use does not meet the needs and demands of employees within the centre and the community to which the centre serves.

3. Public Interest

The proposed development is not in the public interest.

CARRIED UNANIMOUSLY

356

64 to 66 Pacific Highway, Roseville - Demolition of Existing Commercial Building (No 66) and Additions and Alterations to a Club Building - Supplementary Report

File: DA1366/02

J Whitworth addressed Council

To respond to the issues raised by Council at its Meeting of 9 March 2004 and seek determination of the development application.

**Councillor Hall returned and Councillor Innes
arrived during discussion**

Resolved:

(Moved: Councillors Shelley/Lane)

That Development Application 1366/02 for demolition of a commercial building, alterations and additions to the RSL Club, expansion of the car park in Larkin Lane and/or Six Mile Lane, and site consolidation at Lot 2 DP 505371 and Lot 1 DP 202148, be approved, for a period of two years, subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No *1366/02* and Development Application plans prepared by *Project Control Group Pty Ltd*, reference number *DA-01C to DA-08C*, dated *August 2002* and lodged with Council on *26 September 2002*.
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 works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
5. 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.
6. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
7. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
8. 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.

9. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
10. 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.
11. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
 12. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
 13. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
 14. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
 15. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
 16. 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.
17. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.

18. 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.
19. 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.
20. **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.

21. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
22. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
23. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
24. 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.

25. 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.
26. 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 Certificate.
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. All vehicles associated with or which service the premises are to carry out such activities from the rear of the property.
29. For stormwater control all paved areas are to be drained to the main drainage system.
30. For stormwater control a 150mm wide grated drain with heavy duty removable galvanised grates is to be located within the property at the intersection of the driveway and Council's footway to collect all surface water from the driveway. The drainage line shall be connected to the street system.
31. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the street drainage system. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of the footway area shall be a single

100mm diameter sewer grade uPVC pipe with kerb adaptor, where the total design flows from the property are within the capacity of such a pipe, otherwise suitably sized galvanised RHS shall be used. To ensure compliance with this condition, a Certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Final Compliance Certificate.

32. To maintain capacity of the Public drainage system, an On-site Stormwater Detention System must be provided in accordance with Council's Stormwater Management Manual. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

The system is to be cleaned regularly and maintained to the satisfaction of Council.

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.

NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

33. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.

34. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
35. Council property adjoining the construction site must be fully supported at all times during all excavation, demolition and building construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified Structural Engineer or Geotechnical Engineer, must be submitted for the approval of the Principal Certifying Authority (PCA), before the commencement of the works.

Backfilling of excavations adjoining Council property, or any void remaining at completion of construction between the building and Council property, must be fully compacted prior to issue of the Final Compliance Certificate.

36. To ensure health standards, all work is to comply with Council's Code for the Construction or Alteration of Food Premises, The Food Act (1989) and Food Regulation 2001 with the provisions of the Food Standards Code.
37. It is the Applicant's responsibility to ensure that the progress and final inspections of the food premises fitout have been carried out by the Principal Certifying Authority. The applicant is advised that it will be necessary to gain the appropriate Occupation Certificate prior to the operation of the premises.
38. Where any system of mechanical ventilation and/or air conditioning is proposed or installed within the premises such system shall be designed to comply with the Building Code of Australia and Australian Standard, 1668, Part 2 and AS 3666, and shall be subject to approval by the Principal Certifying Authority prior to installation.
39. Noise emission from the mechanical ventilation system including fan units is to be acoustically treated and is not to exceed the background noise level when measured at the nearest property boundary.
40. For the purpose of residential amenity security lights are to be so positioned and/or shielded so as not to interfere with the amenity of the local neighbourhood.
41. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may

be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

42. To preserve the *Nageia falcata* (Outeniqua Yellow Wood) located within Larkin Lane –adjacent to the site's south-western boundary, no excavation works shall be carried out within 5 metres radius of the tree's trunk with exception of the approved building.
43. Canopy pruning of the following tree/s which is 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

Nageia falcata (Outeniqua Yellow Wood)
Within Larkin Lane – Adjacent to the site's south-western boundary.

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

Tree/Location

Radius From Trunk

Nageia falcata (Outeniqua Yellow Wood) 4.5 metres
Within Larkin Lane – Adjacent to the site's south-western boundary.

45. 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.
46. Transplanting of the following trees/shrubs shall be directly supervised by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

Species/Location

Camellia sp. (Camellia) selected for use in the intermittent upper screen planting / Within the area of the proposed timber deck.

47. On completion of the SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
48. The following 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 final Compliance Certificate:

Plant Species

Acer negundo (Box Elder)
Erigeron karvinskianus (Seaside Daisy)
Hedera helix (English Ivy)
Impatiens balsamina (Impatiens)
Jasminum polyanthum (Jasminum)

49. 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.
50. The use of the outdoor terrace shall be limited to Dining Room hours, and in any event be closed and no longer accessible by patrons of the Club after 9.30pm on any night.

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

51. 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.

52. 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.
53. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to issue of a construction certificate.

54. The payment to Council of a sum of \$152,636.00 to enable Council to construct additional parallel parking spaces for ten vehicles on the western boundary of Larkin Lane carpark. Such payment is to be paid prior to the issue of the Construction Certificate.
55. A certificate from a suitable qualified and experience access consultant shall be provided to the Principal Certifying Authority. This certificate shall certify that the plans and specifications for the club development satisfy disabled access requirements of Council's DCP No. 31 – Access.
56. In accordance with the requirements of clause 94 of the Environmental Planning and Assessment Regulation 2000, you are required to install a complete system of fire and smoke alarms to the building. This system is to comply with the requirements of AS1670 and details are to be submitted to Council or the Accredited Certifier for approval with the Construction Certificate.
57. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
58. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

59. 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.

60. **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.

61. 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.
62. The Construction Certificate shall not be released until a Site Management Plan is submitted to the Principal Certifying Authority and approved by a suitably qualified professional.

The plan shall indicate the planned phases of the construction work, erosion and drainage management, tree protection measures, areas nominated for storing

materials, site access and where vehicle parking is proposed, during construction.

63. A plan detailing screen planting of the TIMBER DECK shall be submitted to Council prior to the release of the Construction Certificate and approved by Council's Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of 1.5 metres for the solid lower screen planting and 3 - 4 metres for the intermittent upper screen planting.
64. A CASH BOND/BANK GUARANTEE of \$1,000 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

65. A CASH BOND/BANK GUARANTEE of \$1,000 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Nageia falcata (Outeniqua Yellow Wood) / Within Larkin Lane – adjacent to the site's south-western boundary.

66. To preserve the *Nageia falcata* (Outeniqua Yellow Wood), located within Larkin Lane - adjacent to the site's south-western boundary, no excavation, except for the approved Roseville Memorial Club building, shall occur within 5 metres radius of the tree's trunk. Amended plans for the air conditioning unit

shall be submitted to Council for approval prior to release of the Construction Certificate.

67. To provide greater space for screen planting around the timber deck, the raised planter shall be deleted and the brick wall shall be positioned directly beneath the handrail so that no part of the deck structure and On-Site Detention System shall be within 500mm of the southern site boundary. Amended plans for the timber deck and stormwater detention tanks shall be submitted to Council for approval prior to release of the Construction Certificate.
- 67A. The applicant shall enter into a developers agreement satisfactory to Council for the payment of \$152,636 for the future provision of car parking works required as a result of the proposed development. The agreement shall be in accordance with the development application, as amended by the applicant's written offer made to Council in letter, dated 16 January 2004. The agreement shall be executed and the payment made to Council prior to the issue of a construction certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

68. 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.
69. 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.
70. 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.

71. 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 linen plan/occupation of the development.

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

| Tree/Location | Radius From Trunk |
|--|-------------------|
| <i>Nageia falcata</i> (Outeniqua Yellow Wood) Within Larkin Lane – adjacent to the site’s south-western boundary. | 5 metres |

73. 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.
74. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

75. 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.

76. To ensure compliance with the consent, a final report from a Registered Surveyor shall be submitted to Council confirming floor/ceiling levels and boundary setbacks prior to occupation.
77. Suitable evidence that the sites have been consolidated into 1 allotment shall be submitted to the Principal Certifying Authority prior to occupation of the development.
78. Prior to commencing to operate the food premises, an inspection of the premises shall be carried out by the Principal Certifying Authority to ensure that the premises including the construction and installation of all equipment, fixtures, fittings and finish therein comply with Council's Code for the Construction and Fitout of Food Premises and the conditions of any Council Consent.
79. A Compliance Certificate from a suitably qualified person is to be submitted prior to Occupation certifying that the mechanical ventilation system complies with the Building Code of Australia and Australian Standard 1668.
80. Prior to commencing operation of business, the Food Business is to submit details (including the proprietors name and address, and the nature of the Food Business) to the relevant Authority, as required by Food Safety Standard 3.2.2.
81. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced civil/hydraulic engineer, prior to issue of the Final Compliance Certificate, that:
 - a. The works were carried out and completed in accordance with the approved plans.
 - b. 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.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier Prior to issue of the Final Compliance Certificate.

82. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to issue of the Final Compliance Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage system with the approved plans
- The soundness of the structure.

- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.
- All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The Works-as-Executed drawing(s) are to include all relevant levels including:

- invert levels
- surface or pavement levels
- floor levels including adjacent property floor levels
- maximum water surface level to be achieved in the storage zone
- dimensions of basin(s), tank(s), pit(s), etc.
- location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- storage volume(s) provided and supporting calculations
- size of orifice(s)

83. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to issue of the Final Compliance Certificate or issue of a Subdivision Certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council.

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.

84. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to issue of the Final Compliance Certificate or issue of a Subdivision Certificate.
85. 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.

BUILDING CONDITIONS

86. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Retaining walls and associated drainage.
 - c. Wet area waterproofing details complying with the Building Code of Australia.
 - d. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - e. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - f. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
87. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and hoardings and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - c. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - d. Any stormwater drainage works prior to covering.
 - e. The completed structure prior to occupation.

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

If inspections are to be carried out by Council, 24 hours notice is required by Council's Department of Environmental and Regulatory Services, by

telephoning Customer Service on 9424 0888 during business hours (8.30am to 4.30pm) or by facsimile on 9418 1117.

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

88. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
89. Termite protection which will provide whole of building protection in accordance with Australian Standard 3660 - *"Protection of Buildings from Subterranean Termites"* is to be provided.

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

Where a monolithic slab is used as part of a termite barrier system, the slab shall be constructed in accordance with Australian Standard 2870.1 or as designed by a structural engineer but in either case shall be vibrated to achieve maximum compaction.

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

90. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
 - a. Wet area waterproofing details complying with the Building Code of Australia.
 - b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
 - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
 - e. A Compliance Certificate from a suitably qualified person that the club complies with the relevant deemed to satisfy provisions of the Building Code of Australia.
91. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to

the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

All work in relation to construction, fitting out and finish of any food preparation, storage areas, including the cool room, in compliance with Council's Code for the Construction and Fitout of Food Premises and the Food Act 1989 including the Food Regulation 2001 with the provisions of the Food Standards Code.

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

Against the Resolution: *Councillors Bennett and Malicki*

**The Mayor, Councillor Ryan and Councillor Lane
declared a pecuniary interest under Section 451 of the
Local Government Act 1993
in respect of the following item -
GB.6 – Application to Amend KPSO Regarding
657-661 Pacific Highway, Killara
and withdrew from the Chamber taking no part
in discussion and voting on the item**

Deputy Mayor, Councillor Shelley assumed the Chair

357 **Application to Amend Ku-ring-gai Planning Scheme Ordinance regarding 657 -
661 Pacific Highway, Killara**

File: S02029

The following members of the public addressed Council:

**I Davidson
A Ludvik
A Clements**

To assess the merits of an application to amend the Ku-ring-gai Planning Scheme Ordinance in relation to Nos 657-661 Pacific Highway, Killara.

The Lost Motion:

(Moved: Councillors Ebbeck/Innes)

- A. That Council exhibit Draft Local Environmental Plan No 202 for Nos 657-661 Pacific Highway, Killara.
- B. That Council notifies the Department of Infrastructure Planning and Natural Resources under Section 54 of the EPA Act of its decision.

- C. That Council publicly exhibit the draft Ku-ring-gai Plan No 202 in accordance with provisions of the Environmental Planning and Assessment Act 1979 and Regulations.
- D. That development controls under DCP No. 55 Multi Unit housing under DCP No55-Railway/Pacific Highway Corridor and St Ives Centre be prepared for Nos 657-661 Pacific Highway for consideration by Council at the end of the exhibition period.
- E. That a report be brought back to Council at the end of the exhibition period.

For the Motion: Deputy Mayor, Councillor Shelley, Councillors Ebbeck, Hall and Innes

Against the Motion: Councillors Cross, Andrew, Bennett and Malicki

*The voting being EQUAL, the Mayor exercised her Casting Vote
AGAINST the Motion*

The Lost Amendment:

(Moved: Councillors Malicki/Bennett)

- A. That Council exhibit Draft Local Environmental Plan No 202 for Nos 657-661 Pacific Highway, Killara with the deletion of Clause 4, Clause 5 (second paragraph) and Clause 6(2)(second sentence).
- B. That Council notifies the Department of Infrastructure Planning and Natural Resources under Section 54 of the EPA Act of its decision.
- C. That Council publicly exhibit the draft Ku-ring-gai Plan No 202 as amended in accordance with provisions of the Environmental Planning and Assessment Act 1979 and Regulations.
- D. That development controls under DCP No. 55 Multi Unit housing under DCP No55-Railway/Pacific Highway Corridor and St Ives Centre be prepared for Nos 657-661 Pacific Highway for consideration by Council at the end of the exhibition period.
- E. That a report be brought back to Council at the end of the exhibition period.

For the Amendment: Councillors Cross, Andrew, Bennett and Malicki

Against the Amendment: The Deputy Mayor Councillor Shelley, Councillors Ebbeck, Hall, and Innes

*The voting being EQUAL, the Deputy Mayor exercised her Casting Vote
AGAINST the Amendment*

No decision was taken in respect of the above matter following a Motion and an Amendment, both of which when put to the vote were LOST

**Council adjourned for a short interval at 9.21pm after a Motion moved by Councillors Bennett and Ebbeck was CARRIED and the Chairperson ruled accordingly.
The Meeting resumed at 9.31pm**

Those present were:

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

The Mayor, Councillor Ryan resumed the Chair

358 **Revised Draft Development Control Plan 55 - Multi-Unit Housing - Railway / Pacific Highway Corridor and St Ives**

File: S02036

The following members of the public addressed Council:

**T Martire
J Brooker
C Berlioz**

To have Council consider and adopt for public exhibition a revised Draft Development Control Plan No 55 to apply to multi-unit housing developed under LEP194 and subsequent amending LEPs.

Councillor Cross departed during discussion

Resolved:

(Moved: Councillors Innes/Shelley)

- A. That Council adopt the Draft Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 for land in the vicinity of Pacific Highway / Railway Corridor and St Ives Centre, as amended, for public exhibition.
- B. That the draft Development Control Plan be exhibited and notified in accordance with the provisions of the Environmental Planning and Assessment Act.
- C. That a report be brought back to Council at the end of the exhibition period.
- D. That Council prepare and exhibit (using its delegation under section 65) a draft LEP to rezone to Residential 2D(3) Zone that part of Sturt Place St Ives shown cross hatched in red in the diagram “Sturt Place Setbacks” in draft DCP 55 and that the exhibition be in accordance with the “LEPs and Council Land – Guidelines for Councils using delegated powers to prepare LEPs involving land that is or was previously owned and controlled by Council” dated January 1997.
- E. That the Department of Infrastructure, Planning and Natural Resources be notified of this resolution in accordance with section 54(4) Environmental Planning and Assessment Act and relevant authorities be notified in accordance with section 62 Environmental Planning and Assessment Act.
- F. That, in addition to the following procedures and public consultation required in the Environmental Planning and Assessment Act, Council also follow the processes and public consultation requirements for partial closure of a road as set out in the Roads Act.”
- G. That Council prepare and exhibit an amendment to the 2004-2009 Residential Development Section 94 Plan to provide for the dedication of land for the purpose of road and park as shown in the draft DCP for the area bounded by Killeaton Street, Link Road, Mona Vale Road and Memorial Avenue, St Ives and that this be exhibited concurrently with Draft DCP 55.
- H. That draft DCP 55 be amended prior to exhibition to include an “inconsistency provision” in clause 1.4 a statement that to the extent of any inconsistency with this DCP and LEP 194, that the provisions of LEP 194 prevail.
- I. That the section on “Building Envelope” be reworded to include a note referring to the provision in the NSW Residential Design Flat Code which indicates that the building envelope should not be filled by the FSR and that the FSR should be a maximum 75% of the building envelope.
- J. That the section on heights be redrafted following exhibition and prior to the DCP being brought back to Council for adoption to deal with any matters that arise in discussion with DIPNR once they have received their legal opinion on “non discretionary standards”.
- L. That draft DCP 55 be amended prior to exhibition to include a clause in 1.5 to refer to clause 33(d) of KPSO.

- M. That during exhibition site testing be undertaken to examine the feasibility of the original set back controls.
- N. That Clause 7.1 for the controls for 1580-1586 Pacific Highway, Wahroonga be amended to reduce the building length from 48 metres to 36 metres.

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

Against the Resolution: Councillors Andrew, Bennett, Hall and Malicki

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

(Moved: Councillors Bennett/Andrew)

- A. *That Council adopt the Draft Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 for land in the vicinity of Pacific Highway / Railway Corridor and St Ives Centre for public exhibition.*
- B. *That the draft Development Control Plan be exhibited and notified in accordance with the provisions of the Environmental Planning and Assessment Act.*
- C. *That a report be brought back to Council at the end of the exhibition period.*
- D. *That controls for former special areas not be placed on exhibition but subject to public consultation, further Councillor briefing and this be carried out as soon as possible.*
- E. *That during exhibition site testing be undertaken to examine the feasibility of the original set back controls.*
- F. *That Council prepare and exhibit (using its delegation under section 65) a draft LEP to rezone to Residential 2D(3) Zone that part of Sturt Place St Ives shown cross hatched in red in the diagram "Sturt Place Setbacks" in draft DCP 55 and that the exhibition be in accordance with the "LEPs and Council Land – Guidelines for Councils using delegated powers to prepare LEPs involving land that is or was previously owned and controlled by Council" dated January 1997.*
- G. *That the Department of Infrastructure, Planning and Natural Resources be notified of this resolution in accordance with section 54(4) Environmental Planning and Assessment Act and relevant authorities be notified in accordance with section 62 Environmental Planning and Assessment Act.*
- H. *That, in addition to the following procedures and public consultation required in the Environmental Planning and Assessment Act, Council also*

follow the processes and public consultation requirements for partial closure of a road as set out in the Roads Act.”

- I. That Council prepare and exhibit an amendment to the 2004-2009 Residential Development Section 94 Plan to provide for the dedication of land for the purpose of road and park as shown in the draft DCP for the area bounded by Killeaton Street, Link Road, Mona Vale Road and Memorial Avenue, St Ives and that this be exhibited concurrently with site specific DCP controls for the same area.*
- J. That draft DCP 55 be amended prior to exhibition to include an “inconsistency provision” in clause 1.4 a statement that to the extent of any inconsistency with this DCP and LEP 194, that the provisions of LEP 194 prevail.*
- K. That the section on “Building Envelope” be reworded to include a note referring to the provision in the NSW Residential Design Flat Code which indicates that the building envelope should not be filled by the FSR and that the FSR should be a maximum 75% of the building envelope.*
- L. That the section on heights be redrafted following exhibition and prior to the DCP being brought back to Council for adoption to deal with any matters that arise in discussion with DIPNR once they have received their legal opinion on “non discretionary standards”.*
- M. That draft DCP 55 be amended prior to exhibition to include a clause in 1.5 to refer to clause 33(d) of KPSO.*

359

4 Munderah Street, Wahroonga - Demolition of Heritage Listed Property

File: DA1699/03

Ward: Comenarra

Applicant: Dr Susan O'Reilly

Owner: Dr. Susan O'Reilly

Determination of an application for the demolition of a heritage listed property.

Resolved:

(Moved: Councillors Andrew/Lane)

That Development Application No.1699/03 for demolition of the existing building and associated structures at 4 Munderah Street Wahroonga, being Lot 61, DP 819554, be approved for a period of two years from the date of the Notice of Determination, subject to the following conditions:

- 1. The demolition to be in accordance with Development Application No. 1699/03 lodged with Council on 22 December, 2003.

2. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
3. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
4. 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.
5. 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.
6. 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.

7. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
8. 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.

9. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
10. 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.
11. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
12. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
13. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
14. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
15. Fire hoses are to be maintained on site during the course of demolition.
16. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
17. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
18. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
19. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
20. 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.
21. 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.
- 22. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
- 23. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.
- 24. 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.

CONDITIONS TO BE COMPLIED WITH PRIOR TO DEMOLITION WORK COMMENCING

- 25. 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.
- 26. 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.

- 27. To preserve the following tree/s, no work shall commence until the trunk/s are protected by the placement of 2.0 metre lengths of 50 x 100mm hardwood timbers spaced at 150mm centres and secured by 2mm wire at 300mm spacings. The trunk protection shall be maintained intact until the completion of all work on site. Any damage to the tree/s shall be treated immediately by an experienced Horticulturist/Arborist, with minimum qualification of Horticulture Certificate

or Tree Surgery Certificate and a report detailing the works carried out shall be submitted to the Principal Certifying Authority:

Tree/Location

Jacaranda mimosifolia (Jacaranda)

Close to the garage and the dwelling's south-eastern corner.

Magnolia grandiflora (Bull-bay Magnolia)

Adjacent to the driveway close to the dwelling's north-eastern corner.

28. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
29. Detailed archival recording of the heritage item is to be submitted to Council prior to the commencement of work for the approval of the heritage adviser. Recording shall be undertaken in accordance with the New South Wales Heritage council standards. Particular emphasis is to be placed on the boiler and this is to be recorded by an industrial archaeologist.

Information shall be bound in an A4 report format. It shall include copies of black and white photographs, referenced to plans of the affected property. Two (2) copies (one (1) copy to include negatives of photographs) shall be submitted to Council's Department of Environmental and Regulatory Services, to be held in the Local Studies Collection of Ku-ring-gai Library.

30. Prior to the commencement of any demolition work, the applicant is to submit an application to Council, accompanied by the appropriate fee, to remove the heritage listing of No 4 Munderah Street, Wahroonga by way of an amendment to the Ku-ring-gai Planning Scheme Ordinance.

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

Against the Resolution: *Councillors Bennett and Shelley*

360 **Local Government Association of New South Wales 2004 Election of Executive Committee**

File: S02046

To advise Council of the 2004 election of the Executive Committee of the Local Government Association of New South Wales.

Resolved:

(Moved: Councillors Hall/Ebbeck)

That the matter be received and noted.

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 and Shelley to have the Notice of Rescission dealt with at the meeting was CARRIED and the Chairperson ruled urgency

361

64 to 66 Pacific Highway, Roseville – Demolition of Existing Commercial Building (No 66) and Additions and Alterations to a Club Building – Supplementary Report

File: DA1366/02

Notice of Rescission from Councillors Hall, Lane and Shelley concerning the resolution on the above matter earlier in the evening.

“We the undersigned Councillors hereby rescind the approval and associated conditions relating to 64 to 66 Pacific Highway, Roseville - Demolition of Existing Commercial Building (No 66) and Additions and Alterations to a Club Building.”

Resolved:

(Moved: Councillors Hall/Shelley)

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

CARRIED UNANIMOUSLY

(Moved: Councillors Shelley/Innes)

B. That the amended resolution be adopted as follows:

That Development Application 1366/02 for demolition of a commercial building, alterations and additions to the RSL Club, expansion of the car park in Larkin Lane and/or Six Mile Lane, and site consolidation at Lot 2 DP 505371 and Lot 1 DP 202148, be approved, for a period of two years, subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 1366/02 and Development Application plans prepared by *Project Control Group*

Pty Ltd, reference number *DA-01C to DA-08C*, dated *August 2002* and lodged with Council on *26 September 2002*.

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 works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
5. 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.
6. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
7. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
8. 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.

9. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
10. 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.
11. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
 12. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
 13. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
 14. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
 15. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
 16. 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.
17. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.

18. 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.
19. 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.
20. **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.
21. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
22. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
23. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
24. 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.

25. 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.
26. 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 Certificate.
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. All vehicles associated with or which service the premises are to carry out such activities from the rear of the property.
29. For stormwater control all paved areas are to be drained to the main drainage system.
30. For stormwater control a 150mm wide grated drain with heavy duty removable galvanised grates is to be located within the property at the intersection of the driveway and Council's footway to collect all surface water from the driveway. The drainage line shall be connected to the street system.
31. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the street drainage system. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of the footway area shall be a single

100mm diameter sewer grade uPVC pipe with kerb adaptor, where the total design flows from the property are within the capacity of such a pipe, otherwise suitably sized galvanised RHS shall be used. To ensure compliance with this condition, a Certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Final Compliance Certificate.

32. To maintain capacity of the Public drainage system, an On-site Stormwater Detention System must be provided in accordance with Council's Stormwater Management Manual. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

The system is to be cleaned regularly and maintained to the satisfaction of Council.

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.

NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

33. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.

34. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
35. Council property adjoining the construction site must be fully supported at all times during all excavation, demolition and building construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified Structural Engineer or Geotechnical Engineer, must be submitted for the approval of the Principal Certifying Authority (PCA), before the commencement of the works.

Backfilling of excavations adjoining Council property, or any void remaining at completion of construction between the building and Council property, must be fully compacted prior to issue of the Final Compliance Certificate.

36. To ensure health standards, all work is to comply with Council's Code for the Construction or Alteration of Food Premises, The Food Act (1989) and Food Regulation 2001 with the provisions of the Food Standards Code.
37. It is the Applicant's responsibility to ensure that the progress and final inspections of the food premises fitout have been carried out by the Principal Certifying Authority. The applicant is advised that it will be necessary to gain the appropriate Occupation Certificate prior to the operation of the premises.
38. Where any system of mechanical ventilation and/or air conditioning is proposed or installed within the premises such system shall be designed to comply with the Building Code of Australia and Australian Standard, 1668, Part 2 and AS 3666, and shall be subject to approval by the Principal Certifying Authority prior to installation.
39. Noise emission from the mechanical ventilation system including fan units is to be acoustically treated and is not to exceed the background noise level when measured at the nearest property boundary.
40. For the purpose of residential amenity security lights are to be so positioned and/or shielded so as not to interfere with the amenity of the local neighbourhood.
41. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may

be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

42. To preserve the *Nageia falcata* (Outeniqua Yellow Wood) located within Larkin Lane –adjacent to the site's southwestern boundary, no excavation works shall be carried out within 5 metres radius of the tree's trunk with exception of the approved building.
43. Canopy pruning of the following tree/s which is 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

Nageia falcata (Outeniqua Yellow Wood)
Within Larkin Lane – Adjacent to the site's southwestern boundary.

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

Tree/Location

Radius From Trunk

Nageia falcata (Outeniqua Yellow Wood) 4.5 metres
Within Larkin Lane – Adjacent to the site's south-western boundary.

45. 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.
46. Transplanting of the following trees/shrubs shall be directly supervised by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

Species/Location

Camellia sp. (Camellia) selected for use in the intermittent upper screen planting
/ Within the area of the proposed timber deck.

47. On completion of the SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
48. The following 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 final Compliance Certificate:

Plant Species

Acer negundo (Box Elder)
Erigeron karvinskianus (Seaside Daisy)
Hedera helix (English Ivy)
Impatiens balsamina (Impatiens)
Jasminum polyanthum (Jasminum)

49. 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.
50. The use of the outdoor terrace shall be limited to Dining Room hours, and in any event be closed and no longer accessible by patrons of the Club after 9.30pm on any night.

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

51. 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.

52. 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.
53. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to issue of a construction certificate.

54. The applicant shall enter into a developers agreement satisfactory to Council for the payment of \$152,636 for the future provision of car parking works required as a result of the proposed development. The agreement shall be in accordance with the development application, as amended by the applicant's written offer made to Council in letter, dated 16 January 2004. The agreement shall be executed and the payment made to Council prior to the issue of a construction certificate.
55. A certificate from a suitable qualified and experience access consultant shall be provided to the Principal Certifying Authority. This certificate shall certify that the plans and specifications for the club development satisfy disabled access requirements of Council's DCP No. 31 – Access.
56. In accordance with the requirements of clause 94 of the Environmental Planning and Assessment Regulation 2000, you are required to install a complete system of fire and smoke alarms to the building. This system is to comply with the requirements of AS1670 and details are to be submitted to Council or the Accredited Certifier for approval with the Construction Certificate.
57. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
58. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

59. 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.
60. 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.

61. 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.
62. The Construction Certificate shall not be released until a Site Management Plan is submitted to the Principal Certifying Authority and approved by a suitably qualified professional.

The plan shall indicate the planned phases of the construction work, erosion and drainage management, tree protection measures, areas nominated for storing materials, site access and where vehicle parking is proposed, during construction.

63. A plan detailing screen planting of the TIMBER DECK shall be submitted to Council prior to the release of the Construction Certificate and approved by Council's Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of 1.5 metres for the solid lower screen planting and 3 - 4 metres for the intermittent upper screen planting.
64. A CASH BOND/BANK GUARANTEE of \$1,000 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

65. A CASH BOND/BANK GUARANTEE of \$1,000 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Nageia falcata (Outeniqua Yellow Wood) / Within Larkin Lane – adjacent to the site's south-western boundary.

66. To preserve the *Nageia falcata* (Outeniqua Yellow Wood), located within Larkin Lane - adjacent to the site's south-western boundary, no excavation, except for the approved Roseville Memorial Club building, shall occur within 5 metres radius of the tree's trunk. Amended plans for the air conditioning unit shall be submitted to Council for approval prior to release of the Construction Certificate.
67. To provide greater space for screen planting around the timber deck, the raised planter shall be deleted and the brick wall shall be positioned directly beneath the handrail so that no part of the deck structure and On-Site Detention System shall be within 500mm of the southern site boundary. Amended plans for the timber deck and stormwater detention tanks shall be submitted to Council for approval prior to release of the Construction Certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

68. 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.
69. 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.
70. 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.
71. 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 linen plan/occupation of the development.

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

| Tree/Location | Radius From Trunk |
|--|-------------------|
| <i>Nageia falcata</i> (Outeniqua Yellow Wood) Within Larkin Lane – adjacent to the site’s south-western boundary. | 5 metres |

73. 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.
74. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

75. 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.
76. To ensure compliance with the consent, a final report from a Registered Surveyor shall be submitted to Council confirming floor/ceiling levels and boundary setbacks prior to occupation.

77. Suitable evidence that the sites have been consolidated into 1 allotment shall be submitted to the Principal Certifying Authority prior to occupation of the development.
78. Prior to commencing to operate the food premises, an inspection of the premises shall be carried out by the Principal Certifying Authority to ensure that the premises including the construction and installation of all equipment, fixtures, fittings and finish therein comply with Council's Code for the Construction and Fitout of Food Premises and the conditions of any Council Consent.
79. A Compliance Certificate from a suitably qualified person is to be submitted prior to Occupation certifying that the mechanical ventilation system complies with the Building Code of Australia and Australian Standard 1668.
80. Prior to commencing operation of business, the Food Business is to submit details (including the proprietors name and address, and the nature of the Food Business) to the relevant Authority, as required by Food Safety Standard 3.2.2.
81. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced civil/hydraulic engineer, prior to issue of the Final Compliance Certificate, that:
 - a. The works were carried out and completed in accordance with the approved plans.
 - b. 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.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier Prior to issue of the Final Compliance Certificate.

82. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to issue of the Final Compliance Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage system with the approved plans
- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.

- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.
- All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The Works-as-Executed drawing(s) are to include all relevant levels including:

- invert levels
- surface or pavement levels
- floor levels including adjacent property floor levels
- maximum water surface level to be achieved in the storage zone
- dimensions of basin(s), tank(s), pit(s), etc.
- location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- storage volume(s) provided and supporting calculations
- size of orifice(s)

83. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to issue of the Final Compliance Certificate or issue of a Subdivision Certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council.

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.

84. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to issue of the Final Compliance Certificate or issue of a Subdivision Certificate.
85. 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 Applicant's cost.

BUILDING CONDITIONS

86. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Retaining walls and associated drainage.
 - c. Wet area waterproofing details complying with the Building Code of Australia.
 - d. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - e. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - f. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
87. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and hoardings and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - c. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - d. Any stormwater drainage works prior to covering.
 - e. The completed structure prior to occupation.

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

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

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

88. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
89. Termite protection which will provide whole of building protection in accordance with Australian Standard 3660 - "*Protection of Buildings from Subterranean Termites*" is to be provided.

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

Where a monolithic slab is used as part of a termite barrier system, the slab shall be constructed in accordance with Australian Standard 2870.1 or as designed by a structural engineer but in either case shall be vibrated to achieve maximum compaction.

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

90. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
 - a. Wet area waterproofing details complying with the Building Code of Australia.
 - b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
 - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
 - e. A Compliance Certificate from a suitably qualified person that the club complies with the relevant deemed to satisfy provisions of the Building Code of Australia.
91. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

All work in relation to construction, fitting out and finish of any food preparation, storage areas, including the cool room, in compliance with Council's Code for the Construction and Fitout of Food Premises and the Food Act 1989 including the Food Regulation 2001 with the provisions of the Food Standards Code.

Councillor Bennett withdrew

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

Against the Resolution: *Councillor Malicki*

The Meeting closed at 10.40pm

The Minutes of the Ordinary Meeting of Council held on 27 July 2004 (Pages 1 - 52) were confirmed as a full and accurate record of proceedings on 3 August 2004.

General Manager

Mayor / Chairperson