

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 6 SEPTEMBER 2005

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

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

The Meeting commenced at 7.03pm

The Mayor offered the Prayer

DECLARATION OF PECUNIARY INTEREST

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

No such interest was declared.

*Standing Orders were suspended to deal with the
GB.1 - Election of Mayor & GB.2 - Election of Deputy Mayor,
after a Motion was moved by Councillors Hall & Lane
was CARRIED UNANIMOUSLY*

GENERAL BUSINESS

362 **Election of Mayor for the 2005/2006 Mayoral Term**

File: S03662

To elect the Mayor for the period 2005/2006.

Resolved:

(Moved: Councillors Hall/Ebbeck)

That the Council elect the Mayor for the period 2005/2006 using the ordinary ballot method.

CARRIED UNANIMOUSLY

The General Manager announced that there were 3 nominations for the position of Mayor

Councillors Innes, Malicki & Ryan were nominated and accepted nominations.

The General Manager conducted the ballot in the manner resolved. Three (3) members of the public were invited to act as scrutineers for the election.

The ballot resulted in 4 votes being received by both Councillors Malicki & Councillor Ryan & 2 votes being received by Councillor Innes.

Councillor Innes was excluded.

A further ballot was conducted whereon 5 votes were received by both Councillors Malicki & Ryan.

In accordance with the Regulations, a draw was conducted as Councillors Malicki & Ryan had an equal number of votes.

Councillor Malicki's name was drawn.

Councillor Malicki was duly elected to the position of Mayor of Ku-ring-gai Council for the September 2005/2006 Mayoral Term.

363 **Election of Deputy Mayor for the 2005/2006 Term**

File: S03662

To elect the Deputy Mayor for the period 2005/2006.

Resolved:

(Moved: Councillors Hall/Ebbeck)

That the Council elect the Deputy Mayor for the period 2005/2006 using the same election method as was used for the election of the Mayor.

CARRIED UNANIMOUSLY

The General Manager announced that there were 2 nominations for the position of Deputy Mayor.

Councillors Ebbeck & Innes were nominated & accepted nomination.

The General Manager conducted the ballot in the manner resolved. Three (3) members of the public were invited to act as scrutineers for the election.

The ballot resulted in 5 votes being received for both Councillors Ebbeck & Innes.

In accordance with the Regulations, a draw was conducted as Councillors Ebbeck & Innes had an equal number of votes.

Councillor Ebbeck's name was drawn.

Councillor Ebbeck was duly elected to the position of Deputy Mayor for the September 2005/2006 Term.

**Council adjourned for a short interval at 7.30pm
after a Motion moved by Councillors Ryan & Ebbeck was CARRIED
and the Chairperson ruled accordingly.
The Meeting resumed at 7.45pm**

Those present were:

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

The Mayor, Councillor Malicki thanked Councillor Ryan for her hard work during her term as Mayor and Councillor Ebbeck for his enthusiasm and energy over the past 12 months as Deputy Mayor.

ADDRESS THE COUNCIL

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

R Jones

364 CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499

Resolved:

(Moved: Councillors Innes/Cross)

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

Late Item:

2 Loombah Avenue, Lindfield - Land & Environment Court - Council v Loombah Investments Pty Ltd - Confidential Report by Council's Corporate Lawyer & Director Development & Regulation dated 31 August 2005

CARRIED UNANIMOUSLY

A member of the public objected to the matter being dealt with in Closed Session.

A Motion was moved by Councillors Bennett & Cross to hear the objection was CARRIED UNANIMOUSLY

(Moved: Councillors Hall/Lane)

- B. Council re-affirmed its decision that the matter be dealt with in Closed Meeting - Press and Public excluded.

For the Resolution: The Mayor, Councillor E Malicki, Councillors Andrew, Bennett, Cross, Ebbeck, Hall, Innes, Lane & Shelley

Against the Resolution: Councillor Ryan

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:

Accuracy of OMC Minute No 288: Memorandum by Senior Governance Officer dated 6 September 2005

Petition: 83 Lucinda Avenue, Wahroonga - No Objection to Erection of Fence & Gate from Residents (Eighty-Two [82] Signatures)

Confidential Late Item: 2 Loombah Avenue, Lindfield - Land & Environment Court - Council v Loombah Investments Pty Ltd - Report by Council's Corporate Lawyer and Director Development & Regulation dated 31 August 2005

CONFIRMATION OF MINUTES

365

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 19 July 2005

Minute numbered 288

Resolved:

(Moved: Councillors Hall/Lane)

That Minute No 288, as follows, be confirmed as accurate:

St Ives Town Centre Planning

File: S04019

Vide Minute No 288

The following members of the public addressed Council:

T Martire

C Berlioz

N Ingham

K McLintock

J Hudson

J Roberts

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

To present to Council a summary of work undertaken to date for the planning of St Ives Town Centre area and to seek a Council resolution to prepare a Local Environmental Plan to rezone certain lands in and around the town centre and to prepare a Development Control Plan to set more detailed development controls for this land.

**Council adjourned for a short interval at 11.15 pm
after a Motion moved by the Mayor, Councillor Ryan &
Councillor Ebbeck was CARRIED UNANIMOUSLY
and the Chairperson ruled accordingly.
The Meeting resumed at 11.55pm**

Those present were:

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

**At 11.55pm a Motion moved by Councillors Bennett & Innes to
extend the meeting until 1.00am was put to the vote
and CARRIED UNANIMOUSLY**

Due to the complexity of the matter, the parts of the Amendment, moved by Councillors Hall & Ebbeck, were included in the Motion and voted on.

Resolved:

(Moved: Councillors Bennett/Cross)

- A. (i) That Council adopt the hybrid retail commercial option as shown in attachment D to guide future development of retail and commercial activity in St Ives as amended.
- (ii) Council adopts the recommendation of the retail consultant that there be a range of 3,500 to 5,000sqm retail increase on the East side of Mona Vale Road. That the lower figure be adopted in view of the impacts on Stanley Street and the Stanley Street/Mona Vale intersection.

*For Part (ii) of the Resolution: Councillors Andrew, Bennett, Cross,
Ebbeck & Malicki*

*Against Part (ii) of the Resolution: The Mayor, Councillor A Ryan, Councillors
Hall, Innes & Lane*

- (iii) The St Ives Shopping Village be increased by a maximum of 10,000sqm to 28,000sqm of retail including the strip shops on Mona Vale Road;

(Moved: Councillors Bennett/Cross)

- B. That Council prepare a draft LEP to rezone land for mixed use and medium density residential in the St Ives study area and notify the Department of its resolution under Section 54 Environmental Planning and Assessment Act.

(Moved: Councillors Bennett/Cross)

- C. That Council notify relevant government agencies of its intention to prepare an LEP as required under Section 62 of the Environmental Planning and Assessment Act.

(Moved: Councillors Bennett/Cross)

- D. That the draft LEP propose rezoning of the lands shown as either light blue or dark blue and edged with a dark line (including "Eden Brae" Lot 1-24 Stanley Close but excluding 152 Mona Vale Road), on the map shown in attachment G for mixed use development permitting development of 4 to 6 storeys in accordance with the principles for mixed use set out in the Section headed "Proposals for Zoning".

(Moved: Councillors Bennett/Cross)

- E. That the traffic consultant model the (traffic and parking) impacts of the additional commercial zoning recommended in Attachment G and that the written analysis be presented to the Planning Committee.

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

(Moved: Councillors Bennett/Cross)

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

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

(Originally Moved: Councillors Hall/Ebbeck)

5. 5 to 9 Cowan Road, St Ives.

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

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

(Moved: Councillors Bennett/Cross)

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

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

(Moved: Councillors Bennett/Cross)

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

1. 176 Mona Vale Road, St Ives (Lot 103 DP 627012/Lot 105 DP 629388).

(Originally Moved: Councillors Hall/Ebbeck)

2. 261 Mona Vale Road, St Ives (Lot 31 DP 19052).

(Originally Moved: Councillors Hall/Ebbeck)

3. St Ives Shopping Centre Car park (Lot A DP 321567, Lot 1 DP 504794, Lots A & B DP 336206, Lot 2 DP 822373, Part lot1 DP 420106, Lots B & C DP 322331) includes the St Ives Library, Early Childhood Centre & Neighbourhood Centre (Part Lot 1 DP 420106, Lots B & C DP 322331).

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

Against the Resolution: Councillors Andrew, Bennett & Malicki

(Originally Moved: Councillors Hall/Ebbeck)

4. Car Park 208-210 Mona Ave Road St Ives (Lots 11 & 12 DP 29167).

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

Against the Resolution: Councillors Bennett, Cross & Malicki

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

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

(Moved: Councillors Bennett/Cross)

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

(Moved: Councillors Bennett/Cross)

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

(Moved: Councillors Bennett/Cross)

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

(Originally Moved: Councillors Hall/Ebbeck)

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

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

Against the Resolution: Councillors Bennett, Ebbeck & Malicki

Councillor Bennett's Original Motion omitted the "DCP".

(Moved: Councillors Bennett/Cross)

- M. That prior to being placed on exhibition that the draft LEP and draft DCP be brought back to Council to further resolve to exhibit the documents as presented to Council.

(Moved: Councillors Bennett/Cross)

- N. That Council prepare a public domain concept plan for the St Ives Centre, an action plan for traffic and parking management, proposals for community facilities and other proposals for a schedule of works for inclusion in a draft Section 94 Plan. That staff recommendations on these matters be referred to the Planning Committee for discussion.

(Moved: Councillors Bennett/Cross)

- O. That Council obtain economic feasibility assessment by a suitably qualified consultant to test the proposed controls in the LEP and DCP for land rezoned for mixed use and or medium density development.

(Originally Moved: Councillors Hall/Ebbeck)

- P. Two week exhibition period during the preparation period of the draft LEP & DCP prior to its formal presentation to Council.

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

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

This replaced (P) & (Q) from Councillor Bennett's Original Motion as follows:

- P. That the plan for St Ives as resolved in A-O above be placed on public exhibition for 28 days. That submissions made in this time be reported to Council before the adoption for exhibition of the DLEP and DCP for the St Ives Centre.*

Q. That the proposals for shop top housing (location, amount) and design options (developed to date) be incorporated and exhibited as material in the preliminary plan.

(Moved: Councillors Bennett/Cross)

Q. That a Report on the traffic implications of the staff recommendations be brought to Council in August.

(Originally Moved: Councillors Hall/Ebbeck)

R. That the public domain concept plan include proposals for the removal of Village Green Parade and removal of current surface car parking on Council's car park that runs in parallel to Village Green Parade so as to create additional open space between the retail areas and the village green. However, the proposal should show areas for the retention of some surface car parking accessible from Cowan Road and some surface car parking accessible from Memorial Avenue.

(Originally Moved: Councillors Hall/Ebbeck)

S. That a report be brought back to Council on amendments that will be necessary to the Community Land Plan of Management for the St Ives Village Car Park to incorporate the changes.

The following voting is for the sections of the Resolution where there was no separate voting:

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

Against the Resolution: Councillors Bennett & Malicki

For the Resolution to adopt: Councillors Andrew, Ebbeck, Hall, Innes, Lane & Ryan
Minute No OMC 365

Against the Resolution to: The Mayor, Councillor E Malicki, Councillors
adopt Minute No OMC 365 Bennett, Cross & Shelley

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

(Moved: Councillors Bennett/Cross)

That Minute No 288, as follows, be confirmed as accurate:

- A. (i) That Council adopt the hybrid retail commercial option as shown in attachment D to guide future development of retail and commercial activity in St Ives as amended.*
- (ii) Council adopts the recommendation of the retail consultant that there be a range of 3,500 to 5,000sqm retail increase on the East side of Mona Vale Road. That the lower figure be adopted in view of the impacts on Stanley Street and the Stanley Street/Mona Vale intersection.*

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

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

- F. That the draft LEP rezone the following properties to permit medium density development up to 5 storeys consistent with the density in LEP 194:
 - 1. 201 Mona Vale Road, St Ives.
 - 2. 165 Mona Vale Road, St Ives.
 - 3. 8 Shinfield Avenue, St Ives.
 - 4. 12, 16, 18-22 Stanley Street, St Ives.
- G. That the draft LEP rezone the following properties to permit medium density development up to 3 storeys:
 - 1. 124, 126 and 128 Killeaton Street, St Ives.
 - 2. 161 and 163 Rosedale Road, St Ives.
 - 3. 27 College Crescent, St Ives Chase (also known as 327 Link Road – former CBA Training Centre).
 - 4. 238-240 Mona Vale Road, St Ives (formerly known as Camelia Grove Nursery).
- H. That the draft LEP propose reclassification of the following site from community land to operational land:
 - 1. 176 Mona Vale Road, St Ives (Lot 103 DP 627012/Lot 105 DP 629388).
 - 2. 261 Mona Vale Road, St Ives (Lot 31 DP 19052).

- I. That the Draft LEP be exhibited in accordance with the requirements of LEPs and *Council Land Best Practice Guideline* (January 1997).
- J. That a public hearing be conducted as part of the LEP exhibition in accordance with the relevant provisions of the Local Government Act 1993.
- K. That Council prepare a draft DCP for the St Ives Town Centre in accordance with the table of contents shown in Attachment J to provide more detailed development controls. This DCP is to incorporate the vision statement for St Ives, the principles and objectives as set out in this report and set site specific building envelopes. That the DCP and LEP be considered by the Planning Committee.
- L. In relation to the properties known as Eden Brae that there be provisions in the LEP requiring that the site be amalgamated and redeveloped as a whole.
- M. That prior to being placed on exhibition that the draft LEP and draft DCP be brought back to Council to further resolve to exhibit the documents as presented to Council.
- N. That Council prepare a public domain concept plan for the St Ives Centre, an action plan for traffic and parking management, proposals for community facilities and other proposals for a schedule of works for inclusion in a draft Section 94 Plan. That staff recommendations on these matters be referred to the Planning Committee for discussion.
- O. That Council obtain economic feasibility assessment by a suitably qualified consultant to test the proposed controls in the LEP and DCP for land rezoned for mixed use and or medium density development.
- P. That the plan for St Ives as resolved in A-O above be placed on public exhibition for 28 days. That submissions made in this time be reported to Council before the adoption for exhibition of the DLEP and DCP for the St Ives Centre.
- Q. That the proposals for shop top housing (location, amount) and design options (developed to date) be incorporated and exhibited as material in the preliminary plan.
- R. That a Report on the traffic implications of the staff recommendations be brought to Council in August.

366 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 23 August 2005

Minutes numbered 333 to 361

Resolved:

(Moved: Councillors Ebbeck/Innes)

- A. That Minutes numbered 333 to 355 and 357 to 361 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

- B. That Minute No 356, Turramurra Town Centre Consultation, be amended to read as follows:

I move:

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

CARRIED UNANIMOUSLY

PETITIONS

- 367 **83 Lucinda Avenue, Wahroonga - No Objection to Erection of Fence & Gate from Residents (Eighty-Two [82] Signatures)**

File: P50477

"I/We, have no objection to the erection of a black powder-coated steel/ aluminium fence, brick piers and gate (of approximately 1500mm and 1770mm, respectively) to the front boundary of Property No 83 Lucinda Avenue, Wahroonga NSW 2076."

Resolved:

(Moved: Councillors Andrew/Innes)

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

CARRIED UNANIMOUSLY

GENERAL BUSINESS

- 368 **9 to 15 Kings Avenue, Roseville - Demolition of 4 Dwellings and the Construction of a Residential Flat Building Containing 23 Units and Basement Car Parking for 41 Vehicles**

File: DA1285/04

Ward: Roseville

Applicant: Colston Budd, Hunt & Kafes Pty Ltd

Owners: B Carbines, B Eschmann, J Teer and ETC Developments Pty Ltd

To determine Development Application No.1285/04, which seeks consent for the demolition of 4 dwelling houses and the construction of a residential flat building containing 23 units and basement car parking for 41 vehicles.

Resolved:

(Moved: Councillors Shelley/Innes)

- A. That consideration of Development Application No 1285/04 at 9 to 15 Kings Avenue, Roseville be deferred pending a site inspection.
- B. That the applicant be requested to have the location of the proposed development pegged out on site for the inspection.

CARRIED UNANIMOUSLY

369 **2 Loombah Avenue, Lindfield - Land & Environment Court - Council v Loombah Investments Pty Ltd**

.

File: S03579

Report by Council's Corporate Lawyer & Director Development & Regulation dated 31 August 2005.

Resolved:

(Moved: Councillors Shelley/Ryan)

That Council not pursue any appeal against the decision of the Chief Judge in relation to Land & Environment Court Proceedings No 10816 of 2004.

CARRIED UNANIMOUSLY

The General Manager adverted to the consideration of the matter referred to in Minute Number 368, and to resolution contained in such Minute.

370 **32 Marian Street and 589 Pacific Highway, Killara - Demolition of 2 Residential Dwellings and Construction of a 4 Storey Residential Flat Building Comprising 16 Units and Basement Car Parking for 27 Vehicles**

.

File: DA 1415/04

Ward: Gordon

Applicant: Ray Fitz-Gibbon Architects Pty Ltd

Owner: Provent Property Group Pty Limited - 589 Pacific Highway & P Nott - 32 Marian Street, Killara

To determine development application No.1415/04, which seeks consent for demolition of 2 residential dwelling houses and construction of a 4 storey residential flat building comprising 16 units and basement car parking for 27 vehicles.

Resolved:

(Moved: Councillors Ryan/Lane)

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. 1415/04 for the demolition of two residential dwellings and construction of a four storey residential flat building comprising sixteen units and basement car parking for twenty seven vehicles on land at 32 Marian Street & 589 Pacific Highway, Killara, for the following reasons:

1. Inadequate information

The documentation and plans submitted to Council are inadequate and fail to provide information in order for Council to properly assess the application.

- The application fails to provide an assessment against the controls of Development Control Plan No. 55.
- The application fails to provide an access report for assessment against Clause 25N of LEP194 as it relates to manageable housing

2. No SEPP 1 objection

- The application is devoid of a SEPP No.1 objection for the car parking shortfall of two spaces.

3. Streetscape Impact

The proposal is inconsistent with Clause 25I (1)(a), (c), (d) and (e) of Part IIIA of the Ku-ring-gai Planning Scheme Ordinance in that the proposal will have a detrimental impact on the residential character of the area and adjoining properties due to the scale of the built form, lack of area proposed for landscaping and minimum setbacks proposed.

- (a) The proposal exceeds the maximum number of storeys permissible as specified by Clause 25I (5) of LEP194. Sites with an area of 1,800m² but less than 2,400m² are allowed up to a maximum of four storeys. The subject site is 1917.8m² in area and therefore limited to four storeys. The development proposes five storeys (as defined by LEP194) and requires a SEPP NO.1 objection. The SEPP No.1 objection fails to justify the variation to the development standard and the proposal will result in undue dominance of built form to the streetscape and adjoining sites.
- (b) The proposal exceeds the maximum perimeter ceiling height of 10.3m as required by Clause 25I (8) and requires a SEPP No.1 objection,

accordingly. The proposal exceeds the 10.3m maximum height by a maximum of 470mm for approximately 23m of the eastern elevation and approximately 2m along the northern (Marian Street) elevation. The SEPP No.1 objection fails to justify the variation to the development standard and the proposal will result in undue dominance of built form to the streetscape and adjoining sites.

- (c) The proposed basement car park projects exceeds the 1.2m maximum projection above ground level pursuant to Clause 25I(9) of LEP194. Any projection of a car parking area more than 1.2m that exceeds 1.2m above ground level constitutes another storey and requires a SEPP No.1 objection. The proposed basement car park projects up to 1.9m above ground level. The SEPP No.1 objection fails to justify the variation to the development standard and the proposal results in undue dominance of built form to the streetscape and adjoining sites.
- (d) The proposal fails to maintain a front setback zone to Marian Street of 13-15 metres as required by Clause 4.3 C-1 of DCP55. Proposed setbacks to this frontage vary between 6.5m- 14m and results in undue dominance of built form to the streetscape.
- (e) The proposal fails to maintain a front setback zone to Pacific Highway of 13-15 metres as required by Clause 4.3 C-1 of DCP 55. Proposed setbacks to this frontage vary between 1.8m-13m and results in undue dominance of built form to the streetscape.
- (f) The proposal fails to maintain a side setback zone of 6m to the southern boundary as required by Clause 4.3 C-1 of DCP55. Proposed setbacks to this frontage vary between 4.5m-7.5m and results in undue dominance of built form to the streetscape and to neighbouring properties.
- (g) The proposal fails to provide an 11m setback to Marian Street from ground floor terraces/courtyards as required by Clause 4.3 C-7 of DCP55. Courtyards to this frontage are setback between 5.6m-8.5m, encroaching on potential deep soil landscaping areas and increasing visibility of built form to the street and surrounding properties.
- (h) The proposed building footprint exceeds 40% of the setback zone as required by Clause 4.3 C-5 of DCP55. The proposed building footprint will account for 100% of the setback zone as it applies to the Marian Street frontage, encroaching on potential deep soil landscaping areas and increasing visibility of built form to the street and surrounding properties.
- (i) The proposed building footprint exceeds 40% of the setback zone as required by Clause 4.3 C-5 of DCP55. The proposed building footprint will account for 100% of the setback zone as it applies to the Pacific Highway frontage, encroaching on potential deep soil landscaping areas and increasing visibility of built form to the street and surrounding properties.

- (j) The ground floor terraces/courtyards exceed more than 15% of the total area of the Marian Street front setback as required by Clause 4.4 C-8 of DCP 55. The development terrace/courtyard areas will account for 20% of the front setback and limit the ability to provide landscaping within the setback area for screening and will result in undue dominance of built form to the streetscape, further comprising privacy of residents within the development.

4. Density

The proposal constitutes an over-development of the site and is not in keeping with the optimum capacity of the site, future landscape or built character of the area.

Particulars

- (a) The application proposes an overall floor space ratio of 1.02:1. This is in breach of Clause 4.2 C-4, which limits the maximum floor space ratio to 1:1. The floor space ratio indicates development of an excessive bulk and scale and greater than that anticipated by the relevant planning instruments.

5. Residential Amenity

The application fails to provide a high level of residential amenity to future residents of the development and the occupants of the adjoining properties.

Particulars

- (a) Ground Floor Units 01 & 05 do not have courtyard or terrace areas of at least 25m² as required by Clause 4.5.5 C-1 of DCP55. This results in an undue dominance of built form to the streetscape, compromises privacy to occupants of the site and limits/impacts upon deep soil landscaping and

6. Parking and Vehicular Access

The application fails to provide adequate on-site basement resident and visitor car parking.

Particulars

- (a) The development is located in excess of 400m from the entrance to Killara Station and must provide a total of 29 car parking spaces (25 resident spaces & 4 visitor spaces) in accordance with Clause 25J of LEP194. The proposal provides 25 car parking spaces, with a car parking shortfall of two spaces and requires a SEPP No.1 objection accordingly.
- (b) The basement car park layout omits car parking space No.15 and is therefore inaccurate, providing a total of 25 car parking spaces, instead of the stated 27 car parking spaces. This results in a car parking shortfall of two spaces and requires a SEPP No.1 objection accordingly.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

371

Land & Environment Court Class 1 Appeal Outcomes

File: S03398

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

I move:

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

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

Note. This list is not complete.

Resolved:

(Moved: Councillors Hall/Lane)

That the above Notice of Motion as printed be adopted.

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

Against the Resolution: Councillor Bennett

372

Delegation of Authority - Subdivisions

File: S03878

Notice of Motion from Councillor T Hall dated 17 August 2005.

Further to my motion of 24 May 2005 and general agreement reached at the Planning Committee meeting of 16 August 2005,

I move:

"That all development applications proposing Torrens title subdivision to create up to three lots be determined by staff under delegated authority, excepting subdivision of land that:

- is within the "hatched area" as identified on Council's Bushfire Prone Land Map
- contains a heritage item
- contains remnant bushland vegetation or endangered ecological species

and excepting any application that is called to full Council by a Councillor".

Resolved:

(Moved: Councillors Hall/Innes)

That the above Notice of Motion as printed be adopted.

CARRIED UNANIMOUSLY

GENERAL BUSINESS (cont)

373

38 Owen Street, East Lindfield

File: DA1313/04

The following members of the public addressed Council:

I Glendinning

T Gellert

To respond to issues raised at the Council site inspection and seek Council's determination of the development application.

Resolved:

(Moved: Councillors Shelley/Innes)

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

That the Council, as the consent authority, grant development consent to DA1313/04 for the construction of a detached double carport, on land at 38 Owen Street, East Lindfield, for a period of two (2) years from the date of the Notice of Determination subject to the following conditions:

1. The development to be in accordance with Development Application No 1313/04 and Development Application plans prepared by G Gordon Fuller Architects, reference number DA01 – DA04 (Carport plan, Elevations – East & South, Elevations – North & West, Section) dated December 2004 and lodged with Council on 8 December 2004.
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that authority's by-laws.

Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.

4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
7. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
8. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

9. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
10. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
11. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
12. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.

13. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
14. 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.
15. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
16. Stormwater runoff from new hard surfaces generating runoff shall be piped to the existing site drainage system. No stormwater drainage system is to be connected to the Sydney Water sewer system. Where found, all illegal connections must be rectified to the satisfaction of Council and Sydney Water.
17. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
18. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
19. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".

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

20. 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.

21. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
22. 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.
23. 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.
24. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), written certification from a qualified civil/hydraulic engineer or licensed plumber relating to connection of the additional runoff generated into the existing site drainage system. To ensure the existing drainage system is operating satisfactorily, the Certificate shall specify:
- a. The satisfactory condition of the existing system and satisfactory capacity for continued use after the development and
 - b. That there will be no deleterious effect on existing, adjacent or downstream properties as a result of the continued use of the existing system.

The inspecting engineer/plumber must also include with the certification a sketch plan of the point and method of discharge for the existing stormwater drainage system.

Where the existing drainage system is found to be unsatisfactory for continued use, the applicant is to submit design documentation for a new system for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website, and AS 3500.2 Plumbing and Drainage Code.

NOTE 1: Any new dispersal trenches deemed necessary as a result of the inspection shall be designed in accordance with Council Water Management DCP 47.

NOTE 2: Any proposed or existing stormwater drainage systems that discharge to an approved Council drainage point after passing over other private properties will be required to provide legal evidence within the drainage statement of the existence of a *private drainage easement* benefiting the subject site. Alternatively, evidence of the procurement of a private drainage easement over all necessary intervening downstream properties must be provided in the form of registered title documents.

NOTE 3: New drainage works must incorporate a piped connection to an existing drainage system (satisfying the requirements of this

Condition) or to a (new) approved Council discharge point. New drainage line connections to the Council system shall comply with Council Water Management DCP 47.

25. Prior to issue of the Construction Certificate footpath and driveway levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

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

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

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

26. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted the Principal Certifying Authority for approval prior to the release of the Construction Certificate.
27. The landscape plans by Paul Scrivener, Job Ref. 2003/782/DA1, Issue B, Sheets 1 to 4 are not approved and will require the following amendments.
- The plans shall indicate the revised location of the carport and driveway.
 - The planting of *Trachelospermum jasminoides* (Star Jasmine) shall be extended towards the front boundary adjacent to the proposed brick retaining wall.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

28. 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.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF THE FINAL COMPLIANCE CERTIFICATE

29. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

30. 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.
31. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
32. On completion of the LANDSCAPE WORKS, 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 the Occupation Certificate.

BUILDING CONDITIONS

33. 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. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
34. 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.

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

Against the Resolution: Councillor Bennett

374 **52 Pentecost Avenue, Pymble**

File: DA1317/04

The following member of the public addressed Council:

T Freeman

To refer the application back to Council following the site meeting and seek Council's determination of the development application.

Resolved:

(Moved: Councillors Hall/Ebbeck)

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

THAT the Council, as the consent authority, grant development consent to DA1317/04 for the demolition of the existing dwelling and associated structures and construction of five (5) Seniors Living villas, including basement parking for eleven (11) vehicles, modification of the existing swimming pool and landscaping on land at 52 Pentecost Avenue, Pymble, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL

1. The development to be in accordance with Development Application No 1317/04 and Development Application plans prepared by Molnar Freeman

Architects, reference number Job Number 226, drawing numbers DA001, DA002, DA003, DA101, DA102, DA103, DA201, DA202, DA301, DA302 (Rev A), dated December 2004 and lodged with Council on 8 December 2004

2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a permanent drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.
7. To ensure compliance with the relevant standards, an effective and approved safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal Certifying Authority's satisfaction in the location indicated on the approved plans prior to any water being placed in the pool.
8. For stormwater control, provision shall be made for the collection and disposal of all run-off surface waters from paved areas, recontoured areas, pool overflow and higher levels. All collected waters are to be dispersed without causing nuisance to the adjoining properties.
9. For safety purposes, depth markers shall be provided at both ends of the pool.
10. For safety purposes, prior to the pool being filled a weather resistant poster detailing expired air resuscitation (mouth to mouth) methods shall be affixed within plain sight of the pool. A sign/notice with the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" shall be erected in clear view and in close proximity to the pool.
11. All filtration equipment shall be located in the position as shown on plan, unless as varied by this consent. Where the filtration and electrical equipment is located near a boundary, such equipment shall be positioned not closer than 150mm from the boundary fencing, if any, and electrical conduits and fittings or circulation pipes shall not be attached to any part of the fencing. Filtration or

other equipment shall not be installed in the area of the side boundary setback of the dwelling or outbuilding unless that side boundary setback is greater than 1500mm. For the purpose of residential amenity, the filtration motor pump unit shall be housed in a sound attenuating enclosure and located where indicated on the approved plans or as varied by this consent.

12. The swimming pool is to be made safe during construction by the erection of temporary safety fence to the satisfaction of the Principal Certifying Authority.
13. 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.
14. 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.
15. **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.
16. 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.
17. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
18. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
19. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.

20. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

21. 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:
- must preserve and protect the building from damage, and
 - if necessary, must underpin and support the building in an approved manner, and
 - 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.

22. 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.
23. If the work involved in the erection or demolition of a building:
- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - 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.

24. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am

and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.

25. The fence and footings shall be constructed entirely within the boundaries of the property.
26. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
27. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
28. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
29. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
30. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.

31. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
32. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.

- b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
- 33. 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.
- 34. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
- 35. To reduce or eliminate the transport of sediment from the construction site onto public roads, a temporary construction exit, together with necessary associated temporary fencing, shall be established prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.
- 36. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%) capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.
- 37. For the protection of the health and safety of occupants, workers and the environment, any person renovating or demolishing any building built before the 1970's should be aware that surfaces may be coated with lead-based paint. Lead dust is a hazardous substance. Persons are required to follow the attached recommended guidelines to prevent personal and environmental contamination.
- 38. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
- 39. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
- 40. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner/s which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.
- 41. The creation of a Restriction as to use of land under Section 88E of the Conveyancing Act 1919, restricting the occupation of the premises to:
 - a. People 55 or over or people who have a disability;
 - b. People who live with people 55 or over or people who have a disability;

- c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
42. The development is to remain as Housing for Aged or Disabled Persons within the meaning of State Environmental Planning Policy Seniors Living 2004, at all times.
43. All advertising, signage, marketing or promotion of the sale of the dwellings in this development shall make clear reference to the fact that this is a SEPP Seniors Living 2004 development and that at least one occupier shall be aged 55 years or over or have a disability.
44. 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.
45. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
46. The screen planting shall be completed prior to the issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.
47. Canopy and/or root 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
Eucalyptus saligna (Sydney Blue Gum) Tree 1/north-east corner of site, nature strip
Eucalyptus saligna (Sydney Blue Gum) Tree 11/western boundary, nature strip
Eucalyptus saligna (Sydney Blue Gum) Tree 19, south-west corner, adj property
Eucalyptus pilularis (Blackbutt) Tree 20, south west corner, adj property
Eucalyptus pilularis (Blackbutt) Tree 21, south-west corner, adj property
Eucalyptus saligna (Sydney Blue Gum) Tree 22, south-east corner, adj property
Liquidambar styraciflua (Liquidambar) Tree 23, south-east corner, adj property
48. Landscape works shall be carried out in accordance with Landscape Drawing No L01/A prepared by Joanne Green Landscape Design and dated 26/04/05 submitted with the Development Application, except as amended by the following:

- *Angophora floribunda* and *Arbutus unedo* to be correctly notated.
- All proposed canopy trees to be setback a minimum of 5 metres from building footprint
- Proposed planting of *Westringia fruticosa* along southern boundary to be replaced with screen planting that can attain a height of 3 metres.
- Landscape Specification to be provided.
- Covered entrance structures on Pentecost Avenue and Fairway Avenue to be deleted. To preserve health and condition of following tree, no filling or new wall construction is permitted within the specified radius. All paving to be laid on grade.
- The timber deck off the rear of Villa 3 is to be reduced in depth by 1 metre to allow for adequate deep soil planting.

Tree/Location	Radius From Trunk
---------------	-------------------

<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree11/western boundary, nature strip.	4m
--	----

The following tree is to be shown as being retained:

Eucalyptus saligna (Sydney Blue Gum) Tree1/north-east corner of site, nature strip

49. Removal of Trees no. 4, 5, 6, 7, 7.1, 7.2, 7.3, 8, 8.1, 8.2, 8.3, 9, 9.1, 10, 12, 13, 14, 15, 16, 17 and 18 is permitted.
50. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
51. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
---------------	-------------------

<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 1/north-east corner of site, nature strip	5m
--	----

<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree11/western boundary, nature strip	6m
---	----

<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
--	----

<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m
--	-----

<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	8m
--	----

Eucalyptus saligna (Sydney Blue Gum) Tree 22,
south-east corner, adj property 8m

Liquidambar styraciflua (Liquidambar) Tree 23,
South-east corner, adj property 7m

Jacaranda mimosifolia (Jacaranda) Tree 24,
eastern bdy, adj property 4m

52. The trees to be retained shall be inspected, monitored and treated during construction of driveway to ensure compliance with conditions of consent, by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Documentary evidence of compliance with this condition shall be submitted to Principal Certifying Authority with copy to Council prior to release of the Certificate of Occupation.

53. 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
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 1/ north-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, south-east corner, adj property	8m

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	4m

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

Tree/Location	Radius From Trunk
---------------	-------------------

<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 1/ north-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree11/ western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	8m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, south-east corner, adj property	8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 23, south-east corner, adj property	7m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	4m

56. Excavation for the installation of CONDUITS/SEWER/STORMWATER/GAS within the specified radius of the trunk/s of the following tree/s shall be carried out using the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground surface at the tree/s to minimise damage to tree/s root system. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree1/ North-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree11/ western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	8m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, South-east corner, adj property	8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 23,	7m

South-east corner, adj property

Jacaranda mimosifolia (Jacaranda) Tree 24, 4m
eastern bdy, adj property

57. 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.
58. On completion of the landscape works/tree planting or 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.
59. 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.
60. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
61. A mandatory rainwater re-use tank system, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
62. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided in front of the garage door and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by debris.
63. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
64. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this

application involving an influence upon utility services provided by another authority.

65. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 *“Traffic Control Devices for Work on Roads”*. **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
66. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
67. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 *“Off-Street car parking”*.
68. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
69. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
70. Stormwater quality control measures as described in chapter 8 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.

71. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report 37548 by Douglas Partners, and subsequent reports prepared following further investigation. Over the course of the works a qualified geotechnical engineer must complete the following:
- Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
 - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.

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

72. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.

Note: Required if cost of works exceed \$25,000.00.

73. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
74. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of

the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.

75. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
76. To ensure structural stability, engineer's details (in duplicate) of retaining walls, prepared by a qualified practising structural engineer, shall be submitted to the Principal Certifying Authority for consideration prior to the issue of the Construction Certificate.
77. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF FOUR (4) ADDITIONAL DWELLINGS IS CURRENTLY \$44,630.64. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

78. 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.

79. An amended landscape plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to is submitted to the Principal Certifying Authority and approved prior to release of Construction Certificate
80. The property shall support a minimum number of 10 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to the Principal Certifying Authority and approved prior to release of Construction Certificate.
81. The 7 trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.
82. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

issue of the building certificate, where landscape works has been satisfactorily established and maintained.

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

83. A CASH BOND/BANK GUARANTEE of \$2 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m

84. To preserve the following tree/s, footings of the proposed Villa 3 shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 50mm shall be severed or injured in the process of any site works during the construction period. The beam shall be located on or above existing soil levels.

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

Tree/Location	Radius in Metres
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m

85. Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for approval by the Principal Certifying Authority (PCA). These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement parking slab. The driveway profiles must demonstrate the following:

- a. That vehicular access can be obtained using grades of 25% (1 in 4) maximum and
- b. That all changes in grade (transitions) comply with Australian Standard 2890.1 –“Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.
- c. That the transition between the vehicular crossing and the entry driveway (maximum slope 5% for the first 6 metres inside the property boundary) will not result in the scraping of the underside of vehicles.

The longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application.

- 86. Prior to issue of the Construction Certificate, submission of details and certification by a qualified civil/traffic engineer, for approval by the Principal Certifying Authority (PCA), that the parking provisions provided in common areas and within private parking areas comply with the following standards:
 - a. The State Environmental Planning Policy for Seniors Living (particularly relating to height clearances and space dimensions) and
 - b. Australian Standard 2890.1 – 2004 “Off-street car parking”.
- 87. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the Landcom document “Managing Urban Stormwater – Soils and Construction, Volume 1” (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website). The design may be based on the concept plans 352394 C4 and C5 by AFCE Environment + Building, advanced for construction purposes.
- 88. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including garden irrigation, laundry and toilet flushing. The necessary pumping, housing, filtration and delivery plumbing equipment for re-use shall be shown on this design. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. These details may be incorporated on the overall stormwater management plan and design for the retention/detention system.
- 89. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components, including stormwater quality control measures. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced

civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.

90. The Applicant must carry out the following infrastructure works in the Public Road:

Construct footpaths to Council's specification between the subject site and the nearest footpath, whether outside 50 Pentecost Avenue or 46 to 48 Pentecost Avenue.

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

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

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

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

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

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

91. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$10,000 bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in

close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development or at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - b. The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
92. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention/retention system. The design may be generally based on the concept plan 352394 C1 to C3 by AFCE Environment + Building, advanced for construction purposes. The storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from a minimum 100m² roof area for each 5000 litres of storage. Overflow shall revert to the main drainage system. **Water quality measures are to be included as required by DCP47.** The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.
93. Prior to issue of the Construction Certificate footpath and driveway levels for the new vehicular crossing between the property boundary and road alignment must be obtained from Council. The footpath crossing is to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings". These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

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

Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and

Council may require immediate removal of unauthorised installations.

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

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

94. 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.
95. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	4m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	6m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	7m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, south-east corner, adj property	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	2m

96. To preserve the following tree, no work shall commence until the area beneath the canopy of the following tree excluding the driveway is fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of any materials within the fenced area. The location of the fence is to allow for a minimum 1.2m pedestrian access at all times. The fence shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in metres
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m

97. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
98. 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 THE ISSUE OF THE FINAL COMPLIANCE CERTIFICATE

99. Low level lighting shall be provided along the entrance pathway and the driveway to the front entries of each unit in accordance with the requirements of SEPP Seniors Living 2004. The lighting must provide at least 50 lux at ground level. Documentary evidence of such is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
100. To ensure compliance with the requirements of SEPP Seniors Living 2004 and the documentation submitted with the development application the garages shall be provided with a power operated roller door. Additionally the visitor car parking spaces shall have a minimum dimension of 6 x 3.2 metres 98.
101. To ensure compliance with the requirements of SEPP Seniors Living 2004, every entry must have an entry door handle and other hardware that complies with AS 1428. Additionally all exterior doors for each dwelling shall be keyed alike. The entrance must comply with clauses 4.3.1 and 4.3.2 of AS 4299. Documentary evidence shall be submitted prior to the release of an Occupation Certificate.
102. To ensure compliance with the requirements of SEPP Seniors Living 2004, each interior door must have a clearance of at least 820 millimetres, internal corridors must have a width of at least 1000mm and the width at internal door approaches must be at least 1200mm. Documentary evidence shall be submitted prior to the release of an Occupation Certificate.
103. To ensure compliance with SEPP Seniors Living 2004, the living room must have a circulation space of at least 2250mm in diameter as set out in clause 4.7 of AS4299 and a telephone adjacent to a general power point. Additionally the living and dining room must have a potential illumination of at least 300 lux.
104. To ensure compliance with the requirements of Clause 61 of SEPP Seniors Living 2004 the kitchen shall meet the following requirements:
 - a. a width of at least 2.7 metres and a clear space between benches of at least 1 450 millimetres, and
 - b. a width at door approaches of at least 1 200 millimetres, and
 - c. benches that include at least one work surface:
 - i. that is at least 800 millimetres in length, and

- ii. the height of which can be adjusted from 750 millimetres to 850 millimetres, and
- d. a tap set:
 - i. that is located within 300 millimetres of the front of the sink, and
 - ii. that is a capstan tap set or that comprises lever handles or a lever mixer, and
- e. a thermostatic mixing valve for the hot water outlet, and
- f. cook tops:
 - i. with either front or side controls, and
 - ii. with controls that have raised cross bars for ease of grip, and
 - iii. that include an isolating switch, and
- g. a worksurface adjacent to the cook top and at the same height and that is at least 800 millimetres in length, and h. an oven that is located adjacent to a worksurface the height of which can be adjusted, and
- h. ``D'' pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and
- j. general power outlets: at least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed.

Documentary evidence shall be submitted prior to the release of an Occupation Certificate.

105. To ensure compliance with SEPP Seniors Living 2004, the main bedroom shall be provided with:

- a. 2 double general power outlets on the wall where the head of the bed is likely to be;
- b. at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be;
- c. a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet and a potential illumination level of at least 300 lux.
- d. The bedroom must have an area sufficient to accommodate a wardrobe and a queen-size bed with a clear area at least 1200mm wide at the foot of the bed.

Documentary evidence shall be submitted prior to the release of an Occupation Certificate.

106. To ensure compliance with the requirements of clause 63 the bathrooms must comply with the following:

- a. an area that complies with AS 1428, and
- b. a slip-resistant floor surface, and
- c. a shower:
 - i. the recess of which is at least 1 160 millimetres × 1 100 millimetres, or that complies with AS 1428, or that complies with clause 4.4.4 and Figures 4.6 and 4.7 of AS 4299, and
 - ii. the recess of which does not have a hob, and

- iii. that is waterproofed in accordance with AS 3740, and
 - iv. the floor of which falls to a floor waste, and
 - v. that can accommodate a grab rail that complies with Figure 4.6 of AS 4299 and AS 1428, and
 - vi. that has a tap set that is a capstan tap set or that comprises lever handles and that has a single outlet, and
 - vii. that has the tap set positioned so as to be easily reached from the entry to the shower, and
 - viii. that can accommodate an adjustable, detachable hand-held shower rose mounted on a slider grab rail or a fixed hook, and
 - ix. that can accommodate a folding seat that complies with Figure 4.6 of AS 4299, and
 - d. thermostatic mixing valves for all hot water outlets, and
 - e. a washbasin with clearances that comply with Figure 4.4 of AS 4299, and
 - f. a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it, and
 - g. a mirror, and
 - h. a double general power outlet beside the mirror.
107. To ensure compliance with SEPP Seniors Living 2004, the laundry within each dwelling shall have a thermostatic mixing valve for all hot water outlets and a slip-resistant floor surface. There must also be a clear space in front of appliances of at least 1300 mm.
108. To ensure compliance with clause 68 a self-contained dwelling must be provided with a lined cupboard that is:
- a) able to be operated with one hand, and
 - b) located between 900mm and 1100mm above floor level.
109. To ensure compliance with SEPP Seniors Living 2004, door handles for opening doors must be able to be operated with one hand and located between 900mm and 1100mm above floor level.
110. To ensure compliance with SEPP Seniors Living 2004, all balconies and external paved areas must have slip resistant surfaces and switches must be located between 900mm and 1100mm above floor level. General purpose outlets must be located at least 600mm above floor level.
111. To ensure compliance with SEPP Seniors Living 2004, switches must be located between 900mm and 1100mm above floor level. General purpose outlets must be located at least 600mm above floor level.
112. “Peep holes” shall be provided to the entrance doors of units 2, 3 and 5 for personal security.
113. To ensure compliance with SEPP Seniors Living 2004, street signage incorporating house numbers must be provided at each intersection.

114. To ensure compliance with SEPP Seniors Living 2004, every entry (whether a front entry or not) to a self-contained dwelling, not being an entry for employees:
- a) Must not have a slope that exceeds 1:40; and
 - b) Must comply with clause 4.3.1 and 4.3.2 of AS 4299, and
 - c) Must have an entry door handle and other hardware that complies with AS 1428.
115. To ensure compliance with SEPP Seniors Living 2004, an outside garbage storage area must be provided in an accessible location.
116. To ensure compliance with SEPP Seniors Living 2004, each self-contained dwelling must have a toilet on the ground floor:
- a) That is a visitable toilet within the meaning of clause 1.4.12 of AS 4299, and
 - b) That is installed in compliance with AS 1428, and
 - c) That has a slip-resistant floor surface, and
 - d) The WC pan of which is located from fixed walls in accordance with AS 1428, and
 - e) That can accommodate a grab rail that complies with Figure 4.5 of AS 4299 and AS 1428.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

117. 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.
118. Prior to issue of an Occupation Certificate, the following works must be completed:
- a. Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
 - b. Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks. Full reinstatement of these areas to footway, and/or turfed verge and/or kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - c. Any sections of damaged grass verge are to be fully replaced with a non-friable turf of native variety to match existing.

Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must

be fully repaired to the satisfaction of Council. This shall be at no cost to Council.

119. Prior to issue of an Occupation Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention/retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

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/ retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

120. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following must be provided to Council (attention Development Engineer):
 - a. A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
 - b. A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and
 - c. The Engineer's certification of the as-built system.

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

121. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.
122. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).

123. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit to the Principal Certifying Authority (PCA) certification from a suitably qualified and experienced traffic/civil engineer, that:
- a. The dimensions of all as-constructed private carparking spaces meet the dimension requirements of the Seniors Living SEPP (as last amended), and
 - b. The as-constructed carpark complies with the approved Construction Certificate plans, and
 - c. The vehicular headroom requirements of:
 - the Seniors Living SEPP (as last amended) for accessible parking spaces, and
 - Australian Standard 2890.1 - "Off-street car parking", and are met from the public street into and within the applicable areas of the basement carpark, and
 - d. The gradients of the constructed access driveway from the public street to the basement carpark are in accordance with AS2890.1 and will not result in the scraping of the underside of cars.
124. Prior to issue of an Occupation Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention/ retention and re-use are to be submitted to the Principal Certifying Authority (PCA) for approval. Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

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

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

submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:

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

A Works-as-Executed (WAE) drawing of the property stormwater drainage system is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate. The WAE plan shall show the following as built details, marked in red on the approved construction certificate stormwater drawings:

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

126. Prior to issue of the occupation certificate, the creation of a Restriction-on-Use under the Conveyancing Act, restricting the occupation of the premises to:
 - a. People aged 55 years or over, or people with a disability as defined by the provisions of the State Environmental Planning Policy for Seniors Living.
 - b. People who live with such people as defined in (a) above.
 - c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
127. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structures originally assessed at 50 Pentecost Avenue:

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

If the structure(s) have been demolished under a separate development consent, then no follow-up report is required.

BUILDING CONDITIONS

128. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and documentary evidence of compliance with the relevant terms of the approval/standards of construction detail in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:

- a. Reinforcement AND circulation lines in position prior to any concrete being poured, placed or sprayed.
- b. Drainage lines and circulation lines outside the pool area prior to any backfilling.
- c. Safety fences, gates and latches erected and installed - pools are not to be filled unless a satisfactory inspection of the pool fencing has been made.
- d. Final Inspection - on completion when all conditions of approval have been met including soundproof enclosures, resuscitation posters, depth markers installed and all landscaping completed.

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.

129. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
- b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
- c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
- d. Retaining walls and associated drainage.
- e. Wet area waterproofing details complying with the Building Code of Australia.
- f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

130. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing

Provisions. Documentary evidence of compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

131. 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.
132. To ensure compliance with this determination a Registered Surveyor's Report confirming reduced levels as shown on the approved plans with particular regard to the future finished level of the ground floor shall be submitted to the Principal Certifying Authority on completion of that floor.
133. All structural timber members subject to weather exposure shall have a durability class rating of 2 or better in accordance with Australian Standard 1684.2-1999 (National Timber Framing Code), or be preservative treated in accordance with Australian Standard 1604-1980 (Preservative Treatment for Sawn Timbers, Veneers and Plywood).
134. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
135. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

136. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
 - a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and

- iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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

137. 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. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.

CARRIED UNANIMOUSLY

375 **11 Gregory Street, Roseville**

File: DA0188/05

The following members of the public addressed Council:

**P Griffiths
D Lloyd
A Gourlay**

To respond to issues raised at the Council site inspection and seek Council's determination of the development application.

Resolved:

(Moved: Councillors Shelley/Innes)

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

That Council, as the consent authority, grant development consent to DA 188/05 for the alterations and additions, plus pool and carport on land at 11 Gregory Street, Roseville, as shown on plans prepared by H. Lloyd, Sheets 3/8 to 7/8, dated 2

December 2004, lodged 8 March 2005; Sheet 2/8, dated January 2005; Sheet 8/8, dated 15 February 2005 and lodged with Council on 20 June 2005; plans showing detail, levels and driveway long-section Sheets 1 and 2, lodged 27 June 2005, subject to the following conditions:

1. The development to be in accordance with Development Application No 188/05 and Development Application plans prepared by H Lloyd for D. Lloyd & A Gourlay, dated 2 December 2004 and lodged with Council on 8 March 2005.
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. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a permanent drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.
5. To ensure compliance with the relevant standards, an effective and approved safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal Certifying Authority's satisfaction in the location indicated on the approved plans prior to any water being placed in the pool.
6. For stormwater control, provision shall be made for the collection and disposal of all run-off surface waters from paved areas, re-contoured areas, pool overflow and higher levels. All collected waters are to be dispersed without causing nuisance to the adjoining properties.
7. For safety purposes, depth markers shall be provided at both ends of the pool.
8. For safety purposes, prior to the pool being filled a weather resistant poster detailing expired air resuscitation (mouth to mouth) methods shall be affixed within plain sight of the pool. A sign/notice with the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" shall be erected in clear view and in close proximity to the pool.
9. All filtration equipment shall be located in the position as shown on plan, unless as varied by this consent. Where the filtration and electrical equipment is located near a boundary, such equipment shall be positioned not closer than 150mm from the boundary fencing, if any, and electrical conduits and fittings or circulation pipes shall not be attached to any part of the fencing. Filtration or other equipment shall not be installed in the area of the side boundary setback of the dwelling or outbuilding unless that side boundary setback is greater than

1500mm. For the purpose of residential amenity, the filtration motor pump unit shall be housed in a sound attenuating enclosure and located where indicated on the approved plans or as varied by this consent.

10. To maintain the existing ground levels all spoil shall be removed from the site. Sites shall not be re-shaped, re-contoured, nor the levels on any part of the site altered without the consent of the Council being obtained beforehand.
11. To ensure structural stability wherever the soil conditions so require, a retaining wall or other approved method of preventing the movement of soil shall be provided and adequate provision shall be made for drainage.
12. The swimming pool is to be made safe during construction by the erection of temporary safety fence to the satisfaction of the Principal Certifying Authority.
13. To ensure compliance with the Swimming Pools Act, 1992, the existing boundary fence, forming part of the safety fencing to enclose the pool shall be upgraded or otherwise so altered or reconstructed so as to comply with the provisions of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools". The overall height of the dividing fence is not to exceed 1.8 metres in height above the natural ground level. Attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owners which may arise in respect of this matter and enquiries in this regard may be made at the nearest Local Court.
14. 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.
15. 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.
16. **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.
17. 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.

18. 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.
19. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
20. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
21. 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.
22. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
23. 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.
24. The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.
25. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
26. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
27. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
28. To conserve water, the following shall be installed in the new bathroom areas:
 - a. maximum 6/3 litre dual flush cisterns;
 - b. shower heads with reduced water flow devices.
29. 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.

30. 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.
31. 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
32. 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.
33. Stormwater runoff from all new impervious areas and subsoil drainage systems must be piped to the street drainage system and generally in accordance with the submitted concept drainage plans by Complete Consultants (refer Job No. 0021-1, Revision No. 1, dated 9/6/2005). New drainage line connections to the street drainage system must conform and comply with the requirements described in sections 5.3 and 5.4 of Ku-ring-gai Council Water Management Development Control Plan 47. The Applicants attention is directed to the requirements for obtaining a *Road Opening Permit* for excavating in the road reserve.
34. The proposed rainwater tank shall be designed and cited in accordance with Appendix 6.1 from Council's Water Management Development Control Plan 47.
35. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (eg kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.
36. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
37. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian

circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) *“Traffic Control Devices for Work on Roads”*. **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

38. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
39. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) “Off-Street car parking”.
40. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.
41. The proposed driveway shall be constructed:
 - In accordance with the driveway crossing levels issued by Council.
 - In accordance with AS/NZS 2890.1 (2004) - "Off-street car parking"
 - Generally in accordance with the submitted driveway profile by Brunskill McClenahan & Associates (refer Reference No. 9801-2C, Revision C, dated 22/6/2005).
42. All property drainage system components operational via pressure to be completely sealed for their entire length(s).

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

43. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.

Note: Required if cost of works exceed \$25,000.00.

44. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the

requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

45. 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.
46. To protect the amenity of the adjoining property, all fill under the slab is to be contained by dropped edge beams. Engineer's details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
47. The property shall support a minimum number of 3 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.
48. The two trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

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

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

50. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, details in relation to stormwater management and disposal for the approved development. The following must be included:
- Schedule of new drainage system components required to comply with AS3500.3 – (2003) *Plumbing Code*. This would typically nominate guttering and downpipe sizes and specifications, pipe and pit sizes for new drainage lines, and show the location of these by way of sketch on the architectural plans issued for construction purposes.
 - A plan showing the location of the proposed rainwater storage tank with manufacturer details and specifications provided for proprietary products. The design and citing of rainwater tanks shall be in accordance with Council Water Management DCP47, appendix 6. For every 5000 litres of tank storage provided, at least 100m² of roof area must drain to the rainwater tank system so that the tank has an adequate rainwater supply.
 - The specifications for any pumping facilities so that retained water may be used for household purposes as required.
 - A sketch plan showing the location of any *new* connection points to the public drainage system where proposed (eg at kerb, table drain, in ground pits or pipes) for Council records.
 - All property drainage system components operational via pressure to be completely sealed for their entire length(s).

The details shall be prepared by a qualified civil/hydraulic engineer. The scope of detail required shall be at the discretion of the Principal Certifying Authority having regard to ensuring that the new stormwater disposal and management systems are installed in accordance with the relevant plumbing codes, guidelines and the BCA.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

51. 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.
52. External finishes and colours are to be sympathetic to the surrounding environment.
53. 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 works 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
2 trees on the nature strip	3m
Persimmon in front setback	2m

54. The tree protection fence shall be constructed of star pickets at 2.4 metre spacings and connected by four strands of 2mm wire at 300mm spacings to a minimum height of 1.5metres prior to work commencing.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

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

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

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

56. Prior to issue of the Occupation Certificate the applicant must submit certification from the installing plumbing contractor to the Principal Certifying Authority that:
 - a) The components of the new drainage system have been installed by a licensed contractor in accordance with the *National Plumbing and Drainage code AS3500.3* (2003) and the *Building Code of Australia*, and
 - b) The stormwater drainage works have been completed in accordance with the approved Construction Certificate approved drainage plans and generally in accordance with Ku-ring-gai Council Water Management DCP 47.

A qualified civil/hydraulic engineer may provide this certification in lieu of the installing contractor.

57. Prior to issue of the Occupation Certificate a high level overflow pipe is to be provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. This requirement is to collect stormwater overflow from the swimming pool surface only. A certificate from the installer, indicating compliance with this condition, must be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

BUILDING CONDITIONS

58. All structural timber members subject to weather exposure shall have a durability class rating of 2 or better in accordance with Australian Standard 1684.2-1999 (National Timber Framing Code), or be preservative treated in accordance with Australian Standard 1604-1980 (Preservative Treatment for Sawn Timbers, Veneers and Plywood).

59. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
60. 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.
61. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
62. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.
63. 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.

64. 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.

For the Resolution: Councillors Andrew, Bennett, Cross, Ebbeck, Hall, Innes, Ryan & Shelley

Against the Resolution: The Mayor, Councillor E Malicki & Councillor Lane

376 **1691 to 1693 Pacific Highway, Wahroonga**

File: DA0124/05

The following members of the public addressed Council:

**D Wilkins
C Young
M Levy
M Arnett**

Councillor Ryan withdrew during address

Councillor Ryan returned during discussion

To determine DA 124/05 for the demolition of existing dwelling and the construction of a residential flat building containing 31 units, basement car parking for 40 cars and landscaping.

Supplementary report to Council.

Resolved:

(Moved: Councillors Ebbeck/Hall)

That the Council, as the consent authority, grant development consent to DA 124/05 for the demolition of existing dwellings and the construction of a residential flat building, containing 31 units, basement car parking and landscaping, at 1691-1693 Pacific Highway Wahroonga for a period of two (2) years for the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans numbered DA01-AA, DA-2-AA, DA03-AA, DA04-AA, DA05-BB, DA06-BB, DA07-AA, DA08-BB, DA09-AA, DA10-AA, DA11-AA, DA12-AA, DA13-AA, DA14-AA, DA15-AA, DA16-AA and DA17-AA, dated July 04, drawn by Jones Sonter Architects and Urbanism and Landscape Plan WL1-05, dated 20 January (amended 15 June 2005); drawn by CAB Consulting Pty Ltd, endorsed with Council's approval stamp, except where amended by the following conditions:
2. 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.
3. 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.
4. Landscape works shall be carried out in accordance with Landscape Drawing No WL1-05 prepared by CAB Consulting and dated 15 June 2005 submitted with the Development Application, except as amended by the following:

The proposed planting of *Pistacia chinensis* (Chinese Pistacio) is to be changed to a 50% mix of *Angophora floribunda* (Rough Barked Apple) and *Angophora costata* (Sydney Redgum). Pot size is to be reduced to minimum 50 Litre, locations and quantities are to remain the same as originally proposed. The proposed planting of *Angophora costata* (Sydney redgum) within the nature strip along the Pacific Hwy in front of the site is to be changed to six *Eucalyptus pilularis* (Blackbutt) with a minimum pot size of 25 litres.

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

Tree/Location

#4 *Cedrus deodar* (Himalayan Cedar)

Adjacent to southern/Pacific Hwy site frontage

#10 *Eucalyptus saligna* (Bluegum)

Adjacent to northern site boundary

6. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a

minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

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

Tree/Location	Radius From Trunk
#4 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	5.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	5.5m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	7.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	6.0m

8. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the principal certifying authority shall be required at quarterly/three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority with the Occupation Certificate.
9. No mechanical excavation of the proposed structure shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

Tree/Location	Radius From Trunk
#4 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	7.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	7.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	7.0m

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

Tree/Location	Radius From Trunk
#4 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	5.0m

#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	4.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	5.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	5.0m

11. Excavation for the installation of CONDUITS/SEWER/STORMWATER/GAS within the specified radius of the trunk/s of the following tree/s shall be carried out using the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground surface at the tree/s to minimise damage to tree/s root system. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

Tree/Location	Radius From Trunk
#4 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	5.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	4.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	5.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	5.0m

12. 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.
13. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along the Pacific Hwy. The tree/s used shall be 25 litre container size specimen/s:

Tree Species
Eucalyptus pilularis (Blackbutt) x 6

14. 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
Cinnamomum camphora (Camphor laurel)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)

15. 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.
16. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the freeway drainage system over the RTA land, via the approved site stormwater management system. New drainage line connections shall conform and comply with the requirements described in Ku-ring-gai Council Water Management Development Control Plan 47 and RTA specifications.
17. A mandatory rainwater re-use tank system comprising rainwater tanks of minimum total volume **93m³**, must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. A mains top-up shall be provided for periods of low rainfall, with a void space left for runoff storage purposes.
18. A mandatory on-site detention system comprising stormwater detention tanks of (minimum) total volume **22m³** must be provided for the development.
19. For stormwater control, 200mm wide grated channel/trench drains with heavy-duty removable galvanised grates are to be strategically placed to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drains shall outlets of minimum diameter 150mm to prevent blockage by debris.
20. A maintenance period of six (6) months shall apply to any works on Council property carried out by the applicant, **after** works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
21. Where required, the adjustment or additions of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
22. All public footways and accessways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Certified traffic controllers must be utilised wherever a conflict may occur. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic*

Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

23. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
24. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".
25. For the purpose of any further plan assessment and works inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final sign-off from Council.
26. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Applicant shall refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
27. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
28. Geotechnical aspects of the development works, particularly excavation, support, retention and hydrogeological considerations must be undertaken in accordance with the recommendations of a Geotechnical report to be prepared under the conditions of this consent. Over the course of the works a qualified Geotechnical / hydrogeological Engineer must complete the following:
 - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,

- Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
 - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.
29. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
 30. All construction traffic control and management measures shall be implemented in accordance with an approved *Construction Traffic Management Plan* to be submitted and approved by Council prior to the commencement of works. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
 31. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service.
 32. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
 33. 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.
 34. 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.
 35. **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.

36. 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.
37. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
38. To maintain existing ground levels all excavated material shall be removed from the site.
39. 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.

40. 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.
41. 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.

42. All noise generating equipment mechanical equipment shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.
43. Noise emission from the mechanical ventilation system including fan units is not to exceed the background noise level when measures at the nearest property boundary.
44. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
45. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
46. 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.
47. 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.
48. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
49. 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.
- 50. 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.
- 51. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
- 52. 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.

- 53. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
- 54. 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.

55. 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.
56. The access for demolition and construction vehicles off Bundarra Avenue should be situated as far away as possible from the Pacific Highway for construction activities.
57. Consideration should be given to a cattle grid type structure (approximately 500mm deep) being provided at the exit driveway (within the subject site) to ensure that dirt is not transported by construction and demolition vehicles existing the subject site on to the road. Alternatively, a truck wash facility should be provided within the site to prevent dirt from being tracked on to the road.
58. The layout of the car park associated within the subject development (including driveways, turn paths, sight distance requirements, aisle widths, and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002.
59. All vehicles should be able to enter and exit the site in a forward direction.
60. Any redundant driveways along Pacific Highway frontage to be removed and kerb and gutter re-instated to match existing.
61. The post development storm water discharge from the subject site into the RTA drainage system does not exceed the pre-development discharge.
62. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RTA for approval, prior to the commencement of any works.

Details should be forwarded to:-

The Sydney Asset Management
PO Box 558
Blacktown NSW 2148

A plan checking fee may/will be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirements please contact the RTA's Project Engineer, External Work Ph. 8814 2111.

63. The proposed development should be designed such, that road traffic noise from Pacific Highway is mitigated by durable materials, in accordance with EPA criteria for new land use development (The Environmental Criteria for Roads and Traffic Noise, May 1999). The RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigating treatments.

Where the EPA external noise criteria would not practically or reasonably be met, the RTA recommends that Council applies the following internal noise objectives for all habitable rooms under ventilated conditions complying with the requirements of the Building Code of Australia;

- * All habitable rooms other than sleeping rooms: 45dBA Leq (15hr) and 40DdBA Leq (9hr) and;
- * Sleeping rooms: 35dBA Leq(9hr)

64. All works associated with the subject development shall be at no cost to the RTA.

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

65. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT IS CURRENTLY \$534,832.10.

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

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

1.	Community Facilities	\$1,117.76
2.	Park Acquisition and Embellishment Works - Wahroonga	\$6,574.28
3.	Sportsgrounds Works	\$1,318.32
4.	Aquatic / Leisure Centres	\$27.82

5.	Traffic and Transport	\$150.28
6.	Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75m ²)	1.27 persons
Medium dwelling (75 - under 110m ²)	1.78 persons
Large dwelling (110 - under 150m ²)	2.56 persons
Very Large dwelling (150m ² or more)	3.48 persons
New Lot	3.48 persons
SEPP (Seniors Living) Dwelling	1.3 persons

66. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a plan detailing the required trenches for services. The plan shall show distances from proposed and existing trees. All new public utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
67. A CASH BOND/BANK GUARANTEE of \$10,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

68. A cash bond/bank guarantee of \$16, 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

In the event that any specified trees are found damaged, dying or dead as a result of any negligence by the applicant or its agent, or as a result of the construction

works at any time during the construction period, Council will have the option to demand the whole or part therefore of the bond.

Tree/Location

#4 *Cedrus deodar* (Himalayan Cedar) \$4,000.00
Adjacent to southern/Pacific Hwy site frontage

#10 *Eucalyptus saligna* (Bluegum) \$4,000.00
Adjacent to northern site boundary

#11 *Eucalyptus saligna* (Bluegum) \$4,000.00
Adjacent to northern site boundary

#12 *Eucalyptus saligna* (Bluegum) \$4,000.00
Adjacent to northern site boundary

69. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), registered title documents demonstrating that the subject site is benefited by the necessary easement(s), licence or equivalent approval issued by the Road and Traffic Authority for stormwater drainage connection to the freeway drainage system over the RTA's land. This information is to include, as a minimum, registered Title documents demonstrating the benefit and burdens, together with the instruments describing the terms of necessary drainage easement(s).
70. Prior to issue of the Construction Certificate the Applicant shall submit, for approval by the Principal Certifying Authority (PCA), a scale dimensioned and delineated layout plan for all aspects of the vehicle access and accommodation arrangements. A qualified civil/traffic engineer must provide specific written certification with these parking layout plans that:
- a) All parking space dimensions, driveway and aisle widths, grades, transitions, circulation ramps, blind aisle situations and trafficked areas comply with Australian Standard 2890.1 – 2004 "Off-street car parking".
 - b) A clear height clearance of 2.5 metres headroom is provided for waste collection trucks over the designated basement garbage collection truck manoeuvring areas.
 - c) No security doors, gates, grilles or the like are provided in the access driveways to the basement carpark which would prevent full and unrestricted access for internal garbage collection from the basement garbage storage area.

This condition is required to ensure safe and efficient vehicular access and accommodation arrangements for future residents and service providers within the site.

71. Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for approval by the Principal Certifying Authority. These profiles are to be at 1:100 scale along the middle of the driveway of the proposed driveway, starting from **the centreline of the frontage street carriageway** to the proposed basement

floor level. The traffic engineer shall provide specific written certification on the plans that:

- Vehicular access can be obtained using grades of 20% (1 in 5) maximum and
- All changes in grade (transitions) comply with Australian Standard 2890.1 – “Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.

If a new driveway crossing is proposed then the longitudinal sections **must incorporate the driveway crossing levels as issued by Council** upon prior application.

72. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will comprise the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
73. Prior to issue of the Construction Certificate any security gate, grille or door shown on the DA plans, which would prevent unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, must be deleted from the plans to be approved with the Construction Certificate. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
74. Prior to issue of the Construction Certificate, a plan detailing services trenches in accordance with the relevant supply authorities (including electricity, gas, telephone, water and sewerage), shall be submitted for approval by the Principal Certifying Authority (PCA). The notice of requirements for Sydney Water must be obtained prior to issue of the Construction Certificate.
75. Prior to issue of the Construction Certificate the Applicant shall contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia shall be met in full prior to issue of the Occupation Certificate.
76. Prior to issue of any Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring buildings within the ‘zone of influence’ of the excavation. As a general rule (to be verified based on founding material), this is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal, subsoil conditions and

recommendations contained in the Geotechnical report prepared for construction. The report shall have regard to protecting the Applicant from spurious claims for structural damage and shall be verified by all stakeholders as far as practicable.

77. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossing between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

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

78. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Ku-ring-gai Council Water Management DCP 47.
79. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:
- Exact location and reduced level of discharge point to the public drainage system.
 - Full layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).

- Location(s), dimensions and specifications for the required **rainwater storage and reuse tanks and systems** (minimum volume to be 93m³). Where proprietary products are to be used, manufacturer specifications or equivalent shall be provided.
- Specifications for reticulated pumping facilities (including pump type and manufacturer specifications), holding wells and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47 (minimum uses toilet flushing, laundry in each unit).
- Details of the required **on-site detention** tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
- The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based on the Stormwater Plans by AFCE, plans 342821/C1A-C4A dated 2/2005 submitted with the development application, to be revised and advanced as necessary for construction issue purposes.

80. Prior to the issue of a Construction Certificate the applicant must lodge a **\$25,000** (twenty five thousand dollar) public infrastructure damage bond with Council. This bond is applied pursuant to Section 97 of the *Local Government Act 1993* to cover the cost of:
 - Making good any damage that may be caused to any public infrastructure as a consequence of doing or not doing any thing to which this approval relates,
 - Completing any public infrastructure works that are required in connection with this approval.
 - The bond shall be lodged in the form of a deposit or bank guarantee and will be fully refundable following satisfactory completion of all works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Engineers. Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
 - a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - b) The applicant has not repaired nor commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.

- c) Works in the public road associated with the development are to an unacceptable quality.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

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

Tree/Location	Radius in Metres
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	4.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	7.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	4.5m

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

Tree/Location	Radius From Trunk
#4 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	7.0m

83. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
84. Tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign to advise as minimum details, the following:
- Tree Protection Zone
 - This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.
 - If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works
 - Name, address, and telephone number of the developer.

85. The area of the Tree Protection Zone is to be mulched to a depth of 100mm with organic material being 75% leaf litter and 25% wood, and this being composted material preferably from the same genus and species of tree as to that where the mulch is to be applied, ie species specific mulch. The depth of mulch and type as indicated, to be maintained for the duration of the project.
86. No services either temporary or permanent are to be located within the Tree protection Zone. If services are to be located within the Tree Protection Zone, special details will need to be provided by a qualified consulting Arborist for the protection of the tree regarding the location of the service/s.
87. In the event of prolonged dry periods, or where a tree has been transplanted, or where excavation nearby, especially up slope, leads to drying out of soil profiles closest to the tree/s, the tree/s is to be deep root watered thoroughly at least twice a week. The need for such watering is determined readily by observing the dryness of the soil surface within the dripline of the tree by scraping back some mulch. Mulch to be reinstated afterwards. In the event of disrupted ground or surface water flows to the tree due to excavation, filling or construction, an irrigation system may be required to be installed, consideration must be given to volume, frequency, and drainage of water delivered, and this should be in consultation with a qualified consulting Arborist.
88. If a tree is growing down slope from an excavation, a silt fence located along the contours of the site in the area immediately above the Tree Protection Zone fencing may be need to be installed and regularly maintained to prevent burial and asphyxiation of the roots of the tree. To allow for the maintenance of both fences, the silt fence must be constructed separately to the tree protection fence and the two fences must be constructed independently of each other and stand alone. To reduce competition the Tree Protection Zone is to be kept free of weeds for the duration of the development works.
89. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
90. Prior to the commencement of any works on site the applicant shall submit to **Council** a full dilapidation report on the visible (**including photos**) and structural condition of the following public infrastructure:
 - a) Full road pavement width, including kerb and gutter, of Pacific Highway and Bundarra Avenue over the site frontage, including twenty metres either side of the site frontage.
 - b) All driveway crossings and laybacks opposite the subject site.

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

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

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

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

1. **A plan view of the entire site and frontage roadways indicating:**
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage any pedestrians and construction related vehicles in the frontage roadways,
 - Turning areas within the site for construction and spoil removal vehicles allowing a forward egress for all construction vehicles on the site,
 - The locations of any Work Zones in the frontage roadways,
 - Location of proposed crane standing areas
 - A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
 - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - The provision of an on-site parking area for employees, tradesperson and construction vehicles.
2. **Traffic Control Plan(s) for the site**
 - All traffic control devices installed in the road reserve must be in accordance with the RTA publication “Traffic Control Worksite Manual” and designed by a person licensed to do so (minimum RTA ‘red card’ qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each. The name and certificate number of the traffic control designer must be shown on the Traffic Control Plan.
3. **A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided.**
 - Light traffic roads and those subject to a load or height limit must be avoided at all times.
 - A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.

In addition, the plan must address:

- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

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

92. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.
93. Prior to the commencement of **any** excavation works the applicant must submit, for approval by the Principal Certifying Authority (PCA), a Geotechnical/Civil Engineering report which addresses (but is not limited to) the following:
 - a) The type and extent of substrata formations by the provision of a minimum of three (3) representative borehole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any

- anomalies encountered in the profile. The surface and depth of the borehole logs shall be related to Australian Height Datum.
- b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations shall be discussed and ameliorated.
 - c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site).
 - d) The existing groundwater levels in relation to the basement structure, where influenced.
 - e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flowpath is constructed, artificial drains such as perimeter drains and through drainage may be utilised.
 - f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

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

- No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
- No changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- No changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.

- Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles.
- An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table C1 of AS 2870 – 1996.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

94. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
95. On completion of the landscape works/tree planting or 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 the Occupation Certificate.
96. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified by the required geotechnical report and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
97. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:
 - New double width concrete driveway crossing in accordance with levels and specifications issued by Council.
 - Removal of **all** redundant driveway crossings, gutter bridge crossings, piped gutter crossings and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
 - Trimming of Bundarra Ave road shoulder to accommodate adjusted levels resulting from the removal of redundant gutter crossings.
 - Full repair and resealing of any road surface damaged during construction.
 - Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

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

98. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
99. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:
- a) That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
 - b) That the minimum retention (93m³) and on-site detention storage volume (22m³) requirements of have been achieved in full.
 - c) That retained water is connected and available for uses including all toilet flushing and laundry uses.
 - d) That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
 - e) That all grates potentially accessible by children are secured.
 - f) That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and
 - g) All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47.
 - On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.
100. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:
- As built (reduced) surface and invert levels for all drainage pits.
 - Gradients of drainage lines, materials and dimensions.
 - As built (reduced) level(s) at the approved point of discharge to the public drainage system.
 - As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.

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

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

101. Prior to the issue of an Occupation Certificate the following must be provided to Ku-ring-gai Council (attention Development Engineers):

- A copy of the approved Construction Certificate stormwater drainage plans which show the retention and on-site detention systems.
- A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management.
- All Engineer's certifications specified in this consent.

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

102. Prior to issue of an Occupation Certificate the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed car park complies with the approved Construction Certificate plans.
- b) That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 "Off-Street car parking".
- c) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
- d) That no doors, gates, grilles or other structures have been provided in the access driveways to the basement car park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.
- e) That a 2.5m height clearance for waste collection trucks (refer Ku-ring-gai Council DCP 40) are met from the public street into and within the applicable areas of the basement car park.

103. Prior to issue of the Occupation Certificate the provision of separate underground electricity, gas, phone cable, sewer and water services shall be provided for the development in accordance with those utility providers. A suitably qualified and experienced engineer or surveyor is to provide certification to the Principal Certifying Authority that the development has ready underground access to the services of electricity, gas, phone cable, sewer and water. Alternatively, a final compliance letter from the respective supply authorities may be supplied for approval by the Principal Certifying Authority.

For the Resolution: *Councillors Andrew, Ebbeck, Hall, Innes, Lane & Ryan*

Against the Resolution: *The Mayor, Councillor E Malicki, Councillors Bennett, Cross & Shelley*

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

377 Protocol for the Land & Environment Court

File: S03398

Notice of Motion from Councillor L Bennett dated 29 August 2005.

I move that:

- "A. Council develop a Protocol for providing information in support of refusal to the Land and Environment Court where Council refuses a Development Application against the recommendation of the Officers.
- B. Until such a Protocol is formally adopted by Council that, when such an appeal is notified to Council, an independent consultant who is prepared to support Council's reasons for refusal be briefed to provide an appropriate Report which can be tendered as evidence to the Court."

*Council resolved itself into Closed Meeting for discussion
which was moved by Councillors Lane & Hall*

For the Resolution: *Councillors Cross, Ebbeck, Hall, Innes, Lane & Ryan*

Against the Resolution: *The Mayor, Councillor E Malicki, Councillors Andrew, Bennett & Shelley*

Revert to Open Council

Resolved:

(Moved: Councillors Bennett/Innes)

Council develop a Protocol for providing information in support of refusal to the Land and Environment Court where Council refuses a Development Application against the recommendation of the Officers.

*For the Resolution: The Mayor, Councillor E Malicki Councillors
Andrew, Bennett, Cross, Innes & Shelley*

Against the Resolution: Councillors Ebbeck, Hall, Lane & Ryan

Part B of the Notice of Motion, when put to the vote, was LOST.

Until such a Protocol is formally adopted by Council that, when such an appeal is notified to Council, an independent consultant who is prepared to support Council's reasons for refusal be briefed to provide an appropriate Report which can be tendered as evidence to the Court.

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

(Moved: Councillors Innes/Cross)

That this matter be deferred to the Planning Committee to discussion.

For the Resolution: Councillors Cross, Innes & Shelley

*Against the Resolution: The Mayor, Councillor E Malicki, Councillors
Andrew, Bennett, Ebbeck, Hall, Lane & Ryan*

QUESTIONS WITHOUT NOTICE

378 Investigation of Disclosure of Confidential Council Report

File: S02554

Question Without Notice from Councillor T Hall

I refer to the publication of the contents of a Council confidential report of 31 August on Code of Conduct matters in the edition of the Sydney "Daily Telegraph" on 2nd September under the headline "Mayor in war over words" which I table and ask, has a breach of Section 664 of the Local Government Act occurred that was relative to the outcome of the 2005 Mayoral election and will the General Manager investigate this disclosure and report his findings to Council and to the Director General, Department of Local Government?

Answer by the Mayor

I shall refer that to the General Manager for a report back to Council.

379 **St Ives Ward Report on Redevelopment of St Ives Shopping Development**

File: S04019

Question Without Notice from Councillor T Hall

I table a flyer that was circulated to local residents of St Ives authored by Councillor Bennett calling St Ives residents to oppose the decision of Council on 19 July 2005 relative to the redevelopment of the St Ives CBD and more particularly warning those residents against "spin".

Does this imply that the Council is dishonest?

Will the General Manager investigate whether the terms of this flyer breach Council's Code of Conduct?

Answer by the Mayor

For Part A, I would not think so; and Part B, the General Manager will investigate and report.

380 **Impact of Development Applications in Adjacent Council Areas**

File: S03156, S03477

Question Without Notice from Councillor G Innes

I am aware that the 416 Group (a concerned residents group with members in the Lindfield area of the Roseville Ward) has contacted Council on a number of occasions regarding the impact of Development Applications in adjacent municipalities, and the lack of opportunity for Ku-ring-gai residents to be aware of, and comment upon, such applications. There have been a number of examples in the Ryde municipality.

Could the General Manager advise what action has been, or is proposed to be, taken on this issue, and when the 416 Group might expect a substantive answer to the concerns which they have raised?

Answer by the General Manager

I will report and advise. I can advise in the interim that we are (or have) written to Ryde Council on that very matter. I believe that to be the case at this stage but I will certainly check that, Councillor.

Answer by Director Development & Regulation

I was just going to add that we have also arranged for a number of Council Officers in our Notifications Area to discuss this issue with the counterparts at Ryde Council.

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

The next Inspections Committee will take place on Saturday, 10 September 2005 to view the following property:

9 to 15 Kings Avenue, Roseville

The Meeting closed at 11.08pm

The Minutes of the Ordinary Meeting of Council held on 6 September 2005 (Pages 1 - 94) were confirmed as a full and accurate record of proceedings on 20 September 2005.

General Manager

Mayor / Chairperson