

## MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 9 AUGUST 2005

Present: The Mayor, Councillor A Ryan (Chairperson) (Gordon Ward)  
Councillors A Andrew & E Malicki (Comenarra Ward)  
Councillor L Bennett (St Ives Ward)  
Councillors I Cross & N Ebbeck (Wahroonga Ward)  
Councillor M Shelley (Roseville Ward)  
Councillor M Lane (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 7.01pm*

*The Mayor offered the Prayer*

### 311 APOLOGIES

File: S02194

Councillor T Hall (illness) tendered an apology for non-attendance and requested leave of absence.

**NOTE:** Councillor G Innes AM had previously been granted leave of absence at Council's Meeting of 26 July 2005.

#### **Resolved:**

(Moved: Councillors Malicki/Lane)

That the apology by Councillor T Hall for non-attendance be accepted and leave of absence be granted.

**CARRIED UNANIMOUSLY**

### **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.

## ADDRESS THE COUNCIL

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

D Warner

## 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:

Refer Minute No 288: Ordinary Meeting of Council - 19 July 2005 - Memorandum by Senior Governance Officer dated 3 August 2005 regarding St Ives Town Centre Planning

Refer GB.6: 1 Russell Avenue, Lindfield - Memorandum by Director Development & Regulation dated 3 August 2005

Refer GB.9: 1580 to 1596 Pacific Highway, Wahroonga - Memorandum by Director Development & Regulation dated 8 August 2005

Refer GB.11: 8 to 12 Nola Road, Roseville - Report by Director Development & Regulation dated 2 August 2005

Refer GB.12: Queen Elizabeth Reserve Remediation Preferred Tenderer - Report by Director Open Space dated 27 July 2005

## CONFIRMATION OF MINUTES

### 312 Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 19 July 2005

Minute numbered 288

### Resolved:

(Moved: Councillors Bennett/Malicki)

**Councillor Shelley arrived  
during discussion**

That a transcript of the relevant parts of the debate on Minute No 288 be provided to Councillors.

*For the Resolution: The Mayor, Councillor Ryan, Councillors Andrew, Bennett, Cross, Ebbeck, Malicki and Shelley*

*Against the Resolution: Councillor Lane*

313 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 26 July 2005

Minutes numbered 293 to 310

**Resolved:**

(Moved: Councillors Ebbeck/Lane)

That Minutes numbered 293 to 310 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

**CARRIED UNANIMOUSLY**

**GENERAL BUSINESS**

314 **11 Gregory Street, Roseville - Additions & Alterations Plus Pool & Carport**

File: DA0188/05

Ward: Roseville

Applicant: D Lloyd, A Gourlay

Owner: D Lloyd, A Gourlay

To determine development application No. 188/05, which seeks consent for a detached single carport, a swimming pool and alterations and additions to the existing dwelling.

(Moved: Councillors Shelley/Bennett)

- A. That consideration of DA188/05 at 11 Gregory Street, 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.

*For the Motion: Councillors Bennett and Shelley*

*Against the Motion: The Mayor, Councillor Ryan, Councillors Andrew, Cross, Ebbeck, Lane and Malicki*

*The above Motion when put to the vote was LOST.*

315 **38 Owen Street, Lindfield - Carport**

File: DA1313/04

Ward: Roseville

Applicant: A.Gellert, c/- Glendinning Minto & Associates

Owner: A.Gellert

To determine development application No.1313/04, which seeks consent for a detached double carport, new driveway and associated landscaping works within the front yard.

**Resolved:**

(Moved: Councillors Shelley/Ebbeck)

- A. That consideration of DA1313/04 at 38 Owen Street, Lindfield 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.

*For the Resolution: Councillors Andrew, Bennett, Ebbeck, Lane and Shelley*

*Against the Resolution: The Mayor, Councillor Ryan, Councillors Cross and Malicki*

316

**1691 to 1693 Pacific Highway, Wahroonga - Demolition of Existing Dwellings & Construction of a Residential Flat Building Containing 31 Units, Parking for 31 Cars & Landscaping**

File: DA0124/05

Ward: Wahroonga

Applicant: Steve Donellan - Bundarra Avenue Pty Ltd

Owner: No 1691 - Mr John Younis, Mrs Christine Younis, Mr Leba Younis and Mrs Gloria Younis

To determine development application no. 124/05, which seeks consent for the demolition of two (2) existing dwellings and the erection of a four (4) storey residential flat building, basement car parking and landscaping.

**Resolved:**

(Moved: Councillors Cross/Ebbeck)

- A. That consideration of DA0124/05 at 1691 to 1693 Pacific Highway, Wahroonga 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**

## **Election of Mayor and Deputy Mayor - 2005/2006**

File: S03662

To give consideration to setting the date for the 2005/2006 Election of the Mayor and Deputy Mayor.

### **Resolved:**

(Moved: Councillors Malicki/Ebbeck)

- A. That the 2005/2006 Election of the Mayor and Deputy Mayor be held at the Ordinary Meeting of Council on Tuesday, 6 September 2005.
- B. That the 2005/2006 Election of the Chairpersons/Deputy Chairpersons of Council's Committees and Advisory Committees be held on Tuesday, 20 September 2005.
- C. That Council consider the appointment of various Community Committee members/delegates on Tuesday, 20 September 2005.

**CARRIED UNANIMOUSLY**

## **Options Paper - Local Government Association in NSW**

File: S02046

To consider the "Options Paper for One Local Government Association in NSW".

### **Resolved:**

(Moved: Councillors Malicki/Cross)

That Council supports the establishment of one Local Government Association in NSW as proposed in the Options Paper.

**CARRIED UNANIMOUSLY**

## **Annual Tenders for Supply, Supply and Delivery and Supply, Delivery and Laying of Asphaltic Concrete**

File: S03563

To seek Council's approval to accept the NSROC tender for the schedule of rates for the supply, supply and delivery and supply, delivery and laying of asphaltic concrete, including the associated road profiling and heavy patching works for the period 2005/06.

**Resolved:**

(Moved: Councillors Malicki/Shelley)

- A. That the tender rates submitted by Emoleum for supply, supply and delivery and the supply, delivery and laying of asphaltic concrete and associated road profiling works for 2005/2006 be accepted as the primary supplier and Boral Asphalt as an alternate supplier, if Emoleum is unable to supply.
- B. That the tender rates submitted by Emoleum for heavy patching for 2005/2006 be accepted and the Sharpe Bros Aust Pty Ltd as an alternate contractor, if Emoleum does not meet the performance standard.
- C. That the tenderers be advised of Council's decision.
- D. That authority be given to the Mayor and General Manager to affix the Common Seal of the Council to the instrument for the Contract for the Supply and Laying of Asphaltic Concrete and associated specifications.

**CARRIED UNANIMOUSLY**

320

**Queen Elizabeth Reserve Remediation Preferred Tenderer**

File: S04339

For Council to consider the appointment of a Contractor to undertake Remediation works at Queen Elizabeth Reserve.

**Resolved:**

(Moved: Councillors Shelley/Malicki)

- A. That Western Earthmoving be identified as the preferred tenderer to undertake remediation works at Queen Elizabeth Reserve as outlined in the report and their tender response.
- B. That the Mayor and General Manager be authorised to execute all necessary documents relating to the contract.
- C. That the Seal of Council be affixed to all necessary documents.
- D. That the works commence as soon as practicable after the issue of the letter of acceptance.
- E. That the tenderers be advised of Council's decision.

**CARRIED UNANIMOUSLY**

## **52 Cowan Road, St Ives - Demolition of the Existing Structures & Construction of Six (6) Seniors Living Units including Basement Parking**

File: DA0766/04-2

Ward: St Ives

Applicant: Specialist Properties c/- Glendinning Minto and Associates Pty Ltd

Owner: Mr R and Mrs A M Lee

To determine development application No 766/04 which seeks consent for construction of six (6) Senior Living units, including basement parking at 52 Cowan Road, St Ives.

### **Resolved:**

(Moved: Councillors Lane/Bennett)

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

THAT the Council, as the consent authority, grant development consent to DA766/04 for the demolition of the existing dwelling and associated structures and construction of six (6) seniors living units, including basement parking for fourteen (14) vehicles and landscaping on land at 52 Cowan Road, St Ives, 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 766/04 and Development Application plans prepared by Douglas Sanger Architects, reference number Job Number 2325, drawing numbers DA.001c, DA002c, DA003c, DA005a, DA006a, DA007a, DA008a, DA009a, and DA010a, dated March 2004 and lodged with Council on 22 February 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. 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. 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.
14. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:



- a. must preserve and protect the building from damage, and
- b. if necessary, must underpin and support the building in an approved manner, and
- c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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.

- 15. 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.
- 16. 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.

- 17. 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.
- 18. The fence and footings shall be constructed entirely within the boundaries of the property.
- 19. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.

20. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
21. 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.
22. 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.
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.

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

24. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
25. 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.
26. 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.
27. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.

28. To reduce or eliminate the transport of sediment from the construction site onto public roads, a temporary construction exit, together with necessary associated temporary fencing, shall be established prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.
29. To preserve 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.
30. 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.
31. 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.
32. 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.
33. 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.
34. 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.
35. 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.
36. 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.

37. 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.

38. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
39. Landscape works shall be carried out in accordance with Landscape Drawing No L01B prepared by Selena Hannan Landscape Design and dated 28/06/2004 submitted with the Development Application, except as amended by the following:
- The proposed planting of three *Lagerstroemia indica* (Crepe Myrtle) adjacent to the south east site corner beneath the canopy drip line of the *Cedrus atlantica* (Atlantic Cedar) are to be deleted.
  - The proposed planting of *Robinia pseudoacacia* 'Frisia' (Golden Robinia) adjacent to the northern site boundary is to be replaced with either *Lagerstroemia indica* (Crepe Myrtle), *Elaeocarpus reticulatus* (Blueberry Ash), or *Acer japonicum* (Japanese Maple). Pot sizes are to be as originally proposed.
  - An additional four canopy trees able to grow a minimum height of 13.0m are to be accommodated on site. Two of the trees are to be planted adjacent to the rear site boundary within the garden of Unit 4. It is suggested that one be planted centrally with another adjacent to the south west site corner. Another two trees are to be planted adjacent to the southern site boundary in the rear garden of Unit 4. The trees are to be located no closer than 5.0m to existing or proposed dwellings on site or adjoining properties.
  - It is required that of the proposed eight (8) canopy trees to be planted on site, 50% or four (4) of the trees are to be native endemic species. Suggested species include *Syncarpia glomulifera* (Turpentine), *Angophora floribunda* (Rough barked apple), *Angophora costata* (Sydney Redgum), and *Eucalyptus paniculata* (Grey Ironbark).
  - The 8 *Syzygium Paniculatum* be replaced by 4 *Acer Buergerianum* (at the request of the owners of 50 Cowan Road)
40. 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.

41. 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>Cedrus atlantica</i> (Atlantic Cedar)	8.0m
Adjacent to south east site corner in front garden	

<i>Magnolia soulangeana</i> (Soul's Magnolia)	3.0m
Adjacent to northern site boundary in front garden	

42. 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 with a copy to Council shall be required prior to demolition, at the time of excavation works, at the completion of external construction works and at the completion of all development works on site. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

43. 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>Cedrus atlantica</i> (Atlantic Cedar)	8.0m
Adjacent to south east site corner in front garden	

44. 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.
45. Transplanting of the following trees/shrubs shall be directly supervised by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

Species/Location
<i>Magnolia soulangeana</i> (Soul's Magnolia)
Adjacent to eastern site boundary

46. 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.
47. 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.

48. To preserve the ongoing health and vigour of the *Cedrus atlantica* (Atlantic Cedar), no development works are permitted within a 6.0m radius of the tree.
49. Stormwater runoff generated by the development shall be piped to a recognized drainage system within Pymble Golf Course via an interallotment stormwater drainage line benefiting the subject site, as necessary. The interallotment line is to be covered by the necessary easement for drainage which may exist or need to be created under this consent.
50. A mandatory on-site stormwater retention and re-use system must be provided in accordance with Council's requirements described in chapter 6 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
51. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided at the base of the ramped driveway and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by debris.
52. For stormwater control all paved areas are to be drained to the main drainage system. This may require the installation of suitable cut-off structures, inlets and/or barriers that direct runoff to the formal drainage system. Subsoil drainage is to be provided as required.
53. 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.
54. 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.**
55. 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.

56. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
57. 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”.
58. 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](http://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.
59. 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).
60. To maintain the established streetscape and general appearance, the overall height of the Cowan Road front fence is not to exceed 1.5metre in height above footpath level.

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

61. 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.

62. 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).

63. 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.
64. 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.
65. 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.



66. 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 \$55,788.30. 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	1.3persons

67. 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.

68. 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.

69. A cash bond/bank guarantee of \$6 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following tree is 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 tree is 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

*Cedrus atlantica* (Atlantic Cedar)

Adjacent to south-east site corner

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

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

71. 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.

72. The Applicant must submit carry out the following infrastructure works in the Public Road and engineering plans for such works are to be submitted for approval by Council:

Construction of a concrete footpath (suitable for wheelchair access) between the subject site and the nearest continuous accessible footpath to nearby shops and services. It is expected that the footpath to be constructed will connect the subject site to a dedicated pedestrian refuge across Cowan Rd. Such a refuge may exist to the north or south of the site at the time of construction (development to the north in Cowan Rd under construction has a condition requiring construction of a pedestrian refuge in Cowan Rd)

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).

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. 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. 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.

73. 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:
  - The State Environmental Planning Policy for Senior Living (particularly relating to height clearances and space dimensions) and
  - Australian Standard 2890.1 – 2004 “Off-street car parking”
74. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), advanced plans for the basement and external vehicle access and accommodation arrangements. These plans shall incorporate the following revision:
  - Minimum clear driveway width to be increased to 5.5 metres over the **entire driveway length** (between the property boundary and basement entry point).
75. 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 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).
76. 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) for stormwater drainage as far as the approved point of discharge to the public drainage system. This information is to include, as a minimum, registered Title documents demonstrating the benefit and burdens, together with the instruments describing the terms of necessary drainage easement (s).
77. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full hydraulic design documentation for the required interallotment drainage system from the subject property to the approved point of discharge to the public drainage system. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with Council's Water Management DCP 47 (available on Councils website and at Customer Services) and the Plumbing and Drainage Code (AS3500). New pipes within the downstream easement drainage system must be sized to have adequate capacity to carry design flowrates, or detention system overflows where detention systems are to be provided, from the subject property. The following details must be included:

- Plan view of interallotment system to scale showing dimensions, location and reduced levels of all pits, grates, pipe inverts, flushing facilities and exact point of discharge,
  - The contributing catchment calculations and supporting pipe sizing information ,
  - Longitudinal section showing existing ground levels and proposed pipe invert levels, grades and flow capacities,
  - Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system,
  - Means to preserve the root systems of trees within seven (7) metres of the drainage system.
78. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, carwashing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use, including pumps, shall be shown on this design to a detail suitable for installation by the plumbing services contractor and reference for ongoing maintenance. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
79. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for the on-site stormwater detention and retention system. The minimum 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 the entire roof area as a minimum. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. The design may be generally in accordance with the concept stormwater drainage plans (refer plans 1 and 2, revisions B project 4118 by Boyden and Partners, dated 14/05/04) submitted with the development application, and advanced as necessary for construction issue purposes.
80. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, 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 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. New connection points to the public drainage system must be shown accurately on the plan and shall be made in

accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The design of these drainage components may be generally in accordance with the concept stormwater drainage plans (refer plans 1 and 2, revisions B project 4118 by Boyden and Partners, dated 14/05/04) submitted with the development application, and advanced as necessary for construction issue purposes.

81. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$20,000 (twenty thousand dollar) **public infrastructure damage bond** with Council. This bond is applied under Section 97 of the Local Government Act to cover the restoration by Council of any damage to public infrastructure not repaired in full, 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 and 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:

- Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- 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.
- Works in the public road associated with the development are to an unacceptable quality.

82. To minimise overlooking to the adjoining property:

- A 1.6 metres high lattice type screen is to be attached along the full length of the bedroom 1 and bedroom 2 balconies and along 6metres of the northern length of the terrace of proposed Unit 1.

Details are to be shown on the Construction Certificate plans.

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

83. 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.
84. 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
<i>Cedrus atlantica</i> (Atlantic Cedar)	6.0m

Adjacent to south-east site corner

*Magnolia soulangeana* (Soul's Magnolia) 2.5m  
Adjacent to northern site boundary

85. 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 after transplanting/relocation has taken place, to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
<i>Magnolia soulangeana</i> (Soul's Magnolia)	2.0m
Adjacent to eastern site boundary	

86. To preserve the ongoing health and vigour of the *Cedrus atlantica* (Atlantic Cedar) located adjacent to the south east site corner in the front garden, the protective fence is to be constructed as per the consulting Arborists recommendations, as per the following:
- Prior to any construction or demolition occurring on the site a 1.8m chainmesh fence is to be constructed along the edge of the existing pathway. The fence must be strained at 3.0m intervals and extend around the tree for a minimum 6.0m radius or out to the canopy drip line over the soft landscape area.
  - Prior to the commencement of works, the tree is to be mulched with a fine grade pine chip to a depth of approximately 50mm within the fenced area, to conserve moisture and reduce the incidence of drought stress during construction.
87. The tree protection fencing for the remaining trees to be protected shall be constructed of galvanised pipe at 2.4 metres spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
88. 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.
89. Prior to the commencement of any works on site the applicant shall submit, for approval by the Principal Certifying Authority (PCA) (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of any neighbouring buildings within the 'zone of influence' defined as the horizontal distance from the edge of the excavation face to twice the excavation depth. The report(s) must be completed by a specialist consulting structural/geotechnical engineer as determined necessary by that professional, with a view to informing for potential claims (either legitimate or spurious). A second dilapidation report, recording structural conditions of all structures originally assessed prior to

commencement of works must be carried out at the completion of the works and be submitted to Council. Where it is the view of the consulting geotechnical engineer that no dilapidation reports are required due to adequate offset distances, then certification to this effect from the geotechnical engineer will satisfy this condition.

90. Prior to the commencement of any works on site the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Geotechnical/Civil Engineering report which addresses (but is not limited to) the following:
- The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum.
  - 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.
  - 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).
  - The existing groundwater levels in relation to the basement structure, where influenced.
  - 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.
  - 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.

- 91 The applicant is to provide a schedule of roof material finishes to replace the proposed colourbond roof, and is to be approved by Council prior to the commencement of work. External finishes and colours are to be sympathetic to the surrounding environment and must minimize glare.

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

92. 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.
93. 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.
94. 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.
95. 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.

96. 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.
97. 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.

98. 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.

- 99. 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.
- 100. 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.
- 101. To ensure compliance with clause 68 a self-contained dwelling must be provided with a linen cupboard that is:
  - a) able to be operated with one hand, and
  - b) located between 900mm and 1100mm above floor level.
- 102. 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.

103. 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.
104. 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.
105. "Peep holes" shall be provided to the entrance doors of all units for personal security.
106. To ensure compliance with SEPP Seniors Living 2004, street signage incorporating house numbers must be provided at each intersection.
107. 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.
108. To ensure compliance with SEPP Seniors Living 2004, an outside garbage storage area must be provided in an accessible location.
109. 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

110. 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.

111. Prior to issue of an Occupation Certificate the following works must be completed:

- Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
- Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks over the site frontage. 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.
- 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 Engineers. This shall be at no cost to Council.

112. 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.

113. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention and retention facilities (including all ancillary plumbing) on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88B instruments for protection of on-site detention and retention facilities (refer appendix 14 of DCP47) 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 issue of an Occupation 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 facilities, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

114. 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).

115. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the construction of the required interallotment drainage system must be completed in full. The designing engineer or equivalent professional engineer must supervise the works. At the completion of works, and prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following shall be submitted to the Principal Certifying Authority (PCA):
- Certification from the supervising engineer that the as-constructed works comply with the approved interallotment design documentation, and
  - A full works-as-executed drawing of the as built drainage line (dimensions, grades, materials, invert levels) prepared by a registered surveyor, and
  - Certification from the surveyor that all drainage structures are wholly contained within the drainage easement(s).
116. Prior to issue of an Occupation Certificate a suitably qualified consulting civil/hydraulic engineer is to provide certification for approval by the Principal Certifying Authority (PCA). The certification is to make specific reference to each of the following:
- That construction of the stormwater drainage systems has been carried out by a plumbing contractor licensed to do so.
  - All *Sydney Water* approvals have been obtained for the augmentation of reticulated water.
  - That the as-built detention and retention systems achieve the design storage volumes approved by the Principal Certifying Authority with the Construction Certificate (engineer must complete form in appendix 4 of DCP47 in relation to the on-site detention system).
  - The as-built drainage layout (including pits, pipes, spreaders and the like) is in accordance with the relevant stormwater management and drainage plans approved by the Principal Certifying Authority with the Construction Certificate,
  - That all enclosed floor areas, including habitable and basement levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.
  - The completed as-built drainage and stormwater management systems will achieve the full intent of the approved design plans and Councils Water Management DCP47.
117. Prior to issue of an Occupation Certificate the applicant shall submit the following Works-as-Executed (WAE) drawing(s) to the Principal Certifying Authority in relation to the installed property stormwater drainage and managements systems:
- As built reduced surface and invert levels for all drainage pits and junctions.
  - As built reduced level(s) at the approved point of discharge to the public drainage system.
  - Gradients of drainage lines, materials and dimensions.

- As built location and internal dimensions of all detention and retention structures on the property (plan view) and horizontal distances to nearest adjacent boundaries and buildings on site
- As built locations of all access 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 retention and detention storages and derivative calculation.
- The maximum depth of storage 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(s) is to be prepared by a registered surveyor and shall show all critical constructed levels, materials and dimensions in comparison to those shown in the relevant designs approved by the Principal Certifying Authority with the Construction Certificate. All relevant details indicated must be marked in red on the Principal Certifying Authority stamped construction certificate stormwater drawings.

118. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):

- A copy of the approved Construction Certificate stormwater drainage, detention and retention design for the site, and
- A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management,
- The Engineer's certifications of the as-built drainage, retention and detention systems as 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.

119. Prior to issue of an Occupation Certificate (and at the completion of the works) a suitably qualified and consulting geotechnical engineer is to provide certification to the Principal Certifying Authority (PCA) that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out :

- According the relevant Australian Standards and guidelines and
- According to the approved Geotechnical report undertaken for the development and
- In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.

A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must supervise the excavation procedure.

120. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include physical dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that:
- Vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” and the requirements of the Seniors Living State Environmental Planning Policy.
121. 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. 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.
122. Prior to issue of an Occupation Certificate, a Restriction-on-Use under is to be created on the subject title restricting the occupation of the premises to:
- 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.
  - People who live with such people as defined in (a) above.
  - Staff employed to assist in the administration of and provision of services to housing provided in this development.

## BUILDING CONDCTIONS

123. 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.

124. 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 & Air-conditioning.
  - 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.
125. 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.
126. 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.
127. 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.
128. 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).

129. 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.

130. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

<b>Risers:</b>	<b>Maximum 190mm</b>	<b>Minimum 115mm</b>
<b>Going (Treads):</b>	<b>Maximum 355mm</b>	<b>Minimum 240mm</b>

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.

131. 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.

132. 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 & Air-conditioning.
- 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**

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

### **322 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 Shelley/Lane)

That the matter be deferred to the next Council meeting.

**CARRIED UNANIMOUSLY**

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

*Standing Orders were suspended to deal with  
NM.1 - 8 to 12 Nola Road, Roseville prior to GB.11 -  
8 to 12 Nola Road, Roseville after a Motion moved by  
Councillors Shelley & Ebbeck  
was CARRIED UNANIMOUSLY*

*Standing Orders were suspended to deal with  
NM2 - 1580 to 1596 Pacific Highway, Wahroonga  
in Closed Session (Legal Matter) after a Motion moved by  
Councillors Ebbeck & Cross  
was CARRIED UNANIMOUSLY*

**GENERAL BUSINESS (cont)**

323 **11 Gregory Street, Roseville - Additions & Alterations Plus Pool & Carport**  
.  
File: DA0188/05

Ward: Roseville  
Applicants: D Lloyd, A Gourlay  
Owners: D Lloyd, A Gourlay

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

**A Gourlay**

To determine development application No. 188/05, which seeks consent for a detached single carport, a swimming pool and alterations and additions to the existing dwelling.

**Resolved:**

(Moved: Councillors Shelley/Bennett)

- A. That consideration of DA0188/05 at 11 Gregory Street, 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.

*For the Resolution: Councillors Andrew, Bennett, Cross, Ebbeck, Lane & Shelley*

*Against the Resolution: The Mayor, Councillor Ryan & Councillor Malicki*

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

(Moved: Councillors Malicki/Cross)

THAT Council, as the consent authority, refuse development consent to Development Application No. 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 & 2, lodged 27 June 2005; for the following reasons:

## **Streetscape and character**

1. The proposed development will have a significant adverse impact on the streetscape
  - a) The siting and design of the proposed carport would be incompatible with the environmental character of the locality and would not respond sympathetically to the prevailing settings or maintain the existing harmonious relationship with adjoining properties. (Refer KPSO Schedule 9 1(a) and (b));
  - b) The proposal would result in a utilitarian structure that dominates the site and, from the street, obstructs the view of the dwelling which contributes to the character of the street and the Roseville National Trust Urban Conservation Area (Refer DCP 38, s.4.2.9);
  - c) The proposal fails to comply with Council's Visual Character Statement which discourages reduced setbacks and seeks to retain the proportions of open space (S. 5.1.1 of DCP 38);
  - d) The proposal fails to comply with the minimum front setback provisions of Development Control Plan 38, in that the proposed minimum front setback is 4 metres (Refer s. 5.1.3 of DCP 38);
  - e) The proposal fails to comply with Development Control Plan 38 in that a carport will dominate the dwelling and the site (Refer s. 5.5.3);
  - f) The proposal fails to comply with Development Control Plan 38 in that a carport is proposed forward of the building line (Refer s. 5.5.4 of DCP 38).

## **Inadequate car parking**

2. The proposal fails to provide adequate car parking on the site
  - a) The proposal fails to comply with Development Control Plan 38 and 43 in that only 1 car space is provided, where two are required (Refer s.5.5.1 of DCP 38 and s. 3.1 of DCP 43).

## **Stormwater**

3. The proposed stormwater system has the potential to result in adverse impacts to downstream properties, and the residents of the subject site
  - a) The proposal fails to comply with Development Control Plan 47 in that the stormwater system provides for eight charged downpipes , where a maximum of two charged downpipes is allowed under the DCP (Refer s. 5.7.8 of DCP 47);
  - b) The proposal fails to comply with Development Control Plan 38 in that the built-upon area exceeds the maximum provision of 30%

required where connection to an easement is not provided (Refer s. 5.6.3).

324

**2 to 8 Milray Street and 10 Havilah Lane, Lindfield - Demolition of 5 Dwelling Houses, a Two-Lot Subdivision & Construction of 6x5 Storey Residential Flat Buildings Comprising a total of 72 Units & Basement Car Parking for 123 Vehicles**

File: DA0282/05

Ward: Roseville

Applicant: Arkibuilt Pty Ltd

Owners: 2 Milray Street - A Chia, 2A Milray Street - J & G Reely, 4 Milray Street - R Moss & W Zagoeidis, 6 Milray Street - R Moss & W Zagoeidis, 8 Milray Street - B Grant, 10 Havilah Lane - M & D Allen

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

**P Hoggard**

To determine Development Application No 282/05, which seeks consent for the demolition of 5 dwelling houses, a two-lot subdivision and construction of 6 x 5 storey residential flat buildings comprising 72 units and basement car parking for 123 vehicles.

**Resolved:**

(Moved: Councillors Shelley/Lane)

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

**REFUSAL**

THAT Council, as the consent authority, refuse development consent to Development Application No. 282/05 for demolition of five (5) existing dwelling houses, a two-lot subdivision and construction of six (6) five (5) storey residential flat buildings comprising seventy-two (72) units and basement car parking for one hundred and twenty-three (123) vehicles on land at 2-8 Milray Street & 10 Havilah Lane, Lindfield, as shown on plans numbered DA-A01 Lower Basement Plan, DA-A02 Upper Basement Plan, DA-A03 Ground Floor Plan, DA-A04 First Floor Plan, DA-A05 Second Floor Plan, DA-A06 Third Floor Plan, DA-A07 Fourth Floor Plan, DA-A08 Elevations & Section, DA-A09 Elevations & Sections, DA-A10 Elevations & Section, DA-A11 Data Sheet, DA-A12 Fourth Floor Data, DA-A13 External Colours and Finishes dated June 2004 prepared by Nexus Architecture Pty Ltd and Drawing L01 Landscape plan dated January 2005, prepared by Patio Landscape Architecture & Design, 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 has failed to provide a deep soil landscaping diagram to determine compliance/non-compliance with the 50% minimum deep soil landscaping requirement.

## **2. No SEPP 1 objection**

- The application has failed to provide a SEPP 1 objection in relation to the non-compliance with the 50% deep soil landscaping development standard.

## **3. Streetscape impact**

The proposal is inconsistent with Clause 25I (l)(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.

- The application fails to comply with the 50% deep soil landscaping requirements on both as required by Clause 25i (2) of LEP194.
- The proposal fails to maintain a front setback zone to Milray Street of 12 metres as required by Clause 4.3 C-1 of DCP55 and the Lindfield Special Area Master Plan.
- The proposal fails to maintain a front setback zone to Havilah Lane of 12 metres as required by Clause 4.3 C-1 of DCP 55 and the Lindfield Special Area Master Plan.
- The proposal fails to maintain a front setback zone of 12m to Kochia Lane as required by Clause 4.3 C-1 of DCP55 and the Lindfield Special Area Master Plan.
- The proposal fails to maintain a side setback of 6m to the north-eastern boundary of the site adjoining No.10 Milray Street, Lindfield as required by Clause 4.3 C-1 of DCP55 and the Lindfield Special Area Master Plan.
- The proposal fails to maintain ground floor courtyard setbacks of 8m to Milray Street as required by Clause 4.3 C-7 of DCP55
- The proposal fails to maintain ground floor courtyard setbacks of 8m to Havilah Lane as required by Clause 4.3 C-7 of DCP55.
- Building A measures 46 metres in width and exceeds the 36 metres maximum required by Clause 4.4 C-3 of DCP55.
- Building B measures 39.8 metres in width and exceeds the 36 metres maximum required by Clause 4.4 C-3 of DCP55.
- Buildings A, B, D & F fail to maintain wall plane areas at less than 81m<sup>2</sup> as required by Clause 4.4 C-2 of DCP55.

## **4. Impact on trees**

The proposed development will result in adverse impacts upon existing trees on the site and therefore be inconsistent with the objectives set out in Clause 25D (2) (b) of the KPSO (Part IIIA).

- The development proposes excessive tree removal. In particular, removal of 49 trees from the site and associated area is proposed.
- Building B will be located within the tree canopy of an existing Turpentine tree within the Kochia Street frontage of the site.
- Inadequate setbacks, which limits provision for tall trees within the exterior boundaries of the site and long term retention of existing trees.

## **5. Density**

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

- The application proposes a floor space ratio of 1.42:1. This fails to satisfy Clause 4.2 C-4 which limits the maximum floor space ratio to 1.3:1.

## **6. Residential Amenity**

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

- The proposal will not achieve appropriate separation distances between buildings on site as required by Clause 4.5.2 of DCP55.
- Ground Floor Units A04 & F02 do not have courtyard or terrace areas of at least 25m<sup>2</sup> as required by Clause 4.5.5 C-1 of DCP55.

## **7. Subdivision**

The proposed subdivision is inconsistent with the objectives and aims of LEP194 and DCP55 in that the residential flat buildings located on Lots A and B will not be set within a landscaped curtilage of sufficient depth or comprising sufficient deep soil landscaping as envisaged and required under LEP194 and DCP55.

- The application fails to comply with the 50% deep soil landscaping requirement on Lot A as required by Clause 25I (2) of LEP194.
- The application fails to comply with the 50% deep soil landscaping requirement on Lot B as required by Clause 25I (2) of LEP194.
- The development on Lot A fails to maintain a 6m setback zone to the internal (north-eastern) boundary as required by Clause 4.3 C-1 of DCP55.
- The development on Lot B fails to maintain a 6m setback zone to the internal (south-western) boundary as required by Clause 4.3 C-1 of DCP55.
- The development on Lot A fails to maintain a front setback zone to Milray Street of 12 metres as required by Clause 4.3 C-1 of DCP55 and the Lindfield Special Area Master Plan.
- The development on Lot A fails to maintain a front setback zone to Havilah Lane of 12 metres as required by Clause 4.3 C-1 of DCP 55 and the Lindfield Special Area Master Plan.
- The development on Lot A fails to maintain a front setback zone of 12m to Kochia Lane as required by Clause 4.3 C-1 of DCP55 and the Lindfield Special Area Master Plan.



- The development on Lot B fails to maintain a front setback zone to Milray Street of 12 metres as required by Clause 4.3 C-1 of DCP55 and the Lindfield Special Area Master Plan.
- The development on Lot B proposal fails to maintain a front setback zone to Havilah Lane of 12 metres as required by Clause 4.3 C-1 of DCP 55 and the Lindfield Special Area Master Plan.
- The development on Lot B fails to maintain a side setback of 6m to the north-eastern boundary of the site adjoining No.10 Milray Street, Lindfield as required by Clause 4.3 C-1 of DCP55 and the Lindfield Special Area Master Plan.
- The development on Lot A proposes a floor space ratio of 1.42:1. This fails to satisfy Clause 4.2 C-4 which limits the maximum floor space ratio to 1.3:1.
- The development on Lot B proposes a floor space ratio of 1.39:1. This fails to satisfy Clause 4.2 C-4 which limits the maximum floor space ratio to 1.3:1.
- The development on Lot A fails to comply with the 50% deep soil landscaping requirements on both as required by Clause 25i (2) of LEP194.
- The development on Lot B fails to comply with the 50% deep soil landscaping requirements on both as required by Clause 25i (2) of LEP194.

**CARRIED UNANIMOUSLY**

325

### **1580 to 1596 Pacific Highway, Wahroonga**

File: DA1081/04

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

**L Brennan**  
**J Brooker**  
**L de Stoop**

To refer the application back to Council following the Council meeting of 19 July 2005, and seek Council's determination of the development application.

#### **Resolved:**

(Moved: Councillors Malicki/Andrew)

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

THAT the Council, as the consent authority, grant development consent to DA1081/04 for the construction of seven (7) residential flat buildings containing 148 apartments and basement parking for 205 vehicles, including 37 visitor spaces and strata subdivision into 148 lots on land at 1580-1596 Pacific Highway, Wahroonga,

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 1081/04 and Development Application plans prepared by Meriton Apartments Pty Ltd, reference number Drawing numbers: DA00(B), DA02(C), DA10 (B), DA12(B), DA13(B), DA14(B), DA15(B), DA16(B), DA17(B), DA18(C), DA19(C), DA20(C), DA21(C), DA22(C), DA31(A), DA32(A), DA41(A), DA42, (A) DA51(B), DA52(B), DA61(A), DA62(A), DA71(A), DA72(A), DA81(B), DA82(B), DA91(C), DA101(A), DA102(A), DA103(B), DA104(A), DA105(A), DA106(A), dated July 2005, and lodged with Council on 25 July 2005.
- 1A. An amended landscape plan shall be submitted which provides for the retention of the following Camphor Laurel trees which are located along the western boundary, the trees are identified in Annexure A of the Deed of Agreement between Meriton Property Management Pty Ltd and Andrew and Catherine Cecilia Franklin of 1578 Pacific Highway, Wahroonga:  
  
Trees numbered - 97, 99, 100, 100C, 102, 104, 107, 108, 109, 110, 111, 112, 113, 113A, 119.
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 external materials and finishes are to comply with the schedule of finishes prepare by Meriton Apartments Pty Ltd. In particular:
  - Face brick - Cinnamon Smooth (Boral)
  - Roof - terracotta tile
  - Powder coated privacy screens and aluminium balustrade - Iron Bark (Dulux 52036)
  - Rendered and painted brickwork of balustrade - European White (Dulux)
  - Rendered and painted brickwork 'V' jointed - Delta Waters (Dulux 17.B2)
5. Peep holes" shall be provided to the entrance doors for all units for personal security.
6. 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.

7. 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.
8. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a permanent drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.
9. 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.
10. For safety purposes, depth markers shall be provided at both ends of the pool.
11. 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.
12. 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.
13. 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.
14. **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, removal of spoil and delivery of machinery 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, heavy vehicles are not to arrive prior to 6.30am. 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.

15. 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.
16. A sign shall be erected immediately following appointment of the Principal Certifying Authority, in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
17. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
18. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
19. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
  - a. The type and size of machinery proposed.
  - b. The routes of all trucks to convey material to and from the site.
  - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
20. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
21. 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.
22. 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.

- 23. 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.
- 24. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the SUBDIVISION Certificate.
- 25. 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.

- 26. The developer shall submit to Council a letter from the energy supply authority and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone and power services, prior to the release of the Subdivision Certificate or Occupation. Application may be made to Energy Australia Phone No. 13 1525 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.
- 27. 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.

28. The fence and footings shall be constructed entirely within the boundaries of the property.
29. Under no circumstances shall building materials, demolition waste, fill, soil or any other material from any source be placed or stored within any public reserve.
30. 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.
31. To preserve and enhance the natural environment, sediment removed from erosion and sediment control structures shall be disposed of to an approved sediment dump.
32. 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.
33. 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.
34. 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.
35. External paved access for vehicles and pedestrians being provided with material which will provide some contrast to the finish of the pavement to the satisfaction of the Principal Certifying Authority.
36. No advertising signs are to be erected without the prior consent of Council.
37. 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.

38. Landscape works shall be carried out in accordance with Landscape Drawing No DA-0436-01 Rev B, DA-0436-02 Rev B, and DA-0436-03 Rev B prepared by Guy Sturt and Assoc. and dated 04/04/05 submitted with the Development Application, except as amended by the following:

The proposed planting of two *Eucalyptus saligna* (Bluegum) adjacent to the eastern side of the driveway within the proposed terraced gardens are to be relocated so that they are located no closer than 6.0m from any structure in the same vicinity:

- Existing trees (Nos 129, 130, 133, and 134) *Lophostemon confertus* (Brushbox) located adjacent to the southern site boundary are to be removed and replaced with eight (8) *Elaeocarpus reticulatus* (Blueberry Ash) with a minimum pot size of 45 litres, evenly spaced at 4.0m intervals offset from the southern site boundary by 1.5m and planted in conjunction with appropriate native understorey planting screening shrubs able to attain a minimum height of 3.5m.
  - The proposed planting of *Eucalyptus pilularis* (Blackbutt) adjacent to the southern site boundary (Landscape Plan Part B) are to be planted at an advanced size and have a minimum height at the time of planting of 4.0m.
  - To maintain and enhance neighbour amenity, the proposed planting of *Pittosporum revolutum* (Yellow flowering pittosporum) adjacent to 2 Munderah St is to have a minimum height of 1.2m at the time of planting.
  - To improve and maintain neighbour amenity it is required that proposed planting of the western site boundary adjacent to Buildings F and G be substantially increased with native endemic shrub species able to attain minimum heights of 3.0 to 4.0m. Understorey screening shrubs are to be planted at 2.0 to 3.0m intervals to ensure a dense screen planting.
  - Raised fixed planter boxes/beds are to be provided along the entire south-eastern elevation of the terrace on level 5 of Block A and the entire north-western elevation of the terrace on Block B on level 5. The planter boxes/beds are to be planted with shrubs which achieve a cumulative total height of 2.0m
39. To enhance streetscape amenity the proposed timber fence panels adjacent to the Pacific Hwy and Munderah St frontages are to be deleted and replaced with an open palisade fence to the same dimensions.
- 39A. To provide and maintain neighbour amenity, person(s), having the benefit of this consent will construct, at its full cost, centrally located on the boundary, a masonry 'face brick' fence. The fence is to have a maximum height of 1.2m above existing ground levels forward of the building line of No. 2 Munderah Avenue and increase to a maximum height of 1.8m above existing ground levels behind the building line. To minimise adverse tree impacts, no masonry works are permitted beneath the canopy drip line of existing trees to be retained. Beneath the canopy dripline of existing trees, the masonry wall shall be replaced with a lightweight timber fence to a maximum height of 1.8m. If, in the event an

existing tree trunk straddles the site boundary, the timber fence is to be constructed around the tree with a 1.5m setback from the outer edge of the tree trunk wholly within the subject site (1580-1596 Pacific Highway).

- 39B. The applicant shall submit prior to the issue of a Construction Certificate for works excluding site clearing and excavation, an amended landscape plan to Council's Landscape Officer that shall incorporate the items listed in the Deed of agreement. In addition, the applicant shall provide additional screen planting along the northern side of the boundary fence.
40. To enhance and maintain streetscape amenity to both the Pacific Highway and Munderah St, any proposed fencing is to be located with a minimum 2.0m setback from the site boundaries. The proposed fence and fence piers are not to exceed 1.8m in height above ground level.
41. 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.
42. 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
Tree numbers refer to Arborists Report by TALC dated 22 March 2005	
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#4 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	6.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	7.0m



#27 <i>Cedrus deodar</i> (Himalayan Cedar)	4.0m (western side,
Adjacent to eastern/Pacific Hwy site boundary elsewhere)	7.0m
#36 <i>Casuarina glauca</i> (Sheoak)	3.0m
Adjacent to western site boundary/2 Munderah Street	
#39 <i>Acer palmatum</i> (Japanese Maple)	4.0m
Adjacent to western site boundary/2 Munderah Street	
#73 <i>Afrocarpus falcata</i> (Brown Pine)	5.0m
Adjacent to eastern/Pacific Hwy site boundary	
#123 <i>Camellia sasanqua</i> (Chinese Camellia)	4.0m
Adjacent to eastern site boundary within 1578 Pacific Hwy	
#127 <i>Eucalyptus nicholii</i> (Small leaf peppermint)	5.0m
Adjacent to eastern site boundary within 1578 Pacific Hwy	
#131 <i>Eucalyptus saligna</i> (Bluegum)	7.5m
South west site corner	
#132 <i>Eucalyptus saligna</i> (Bluegum)	10.0m
South west site corner	
#135 <i>Eucalyptus saligna</i> (Bluegum)	10.0m
Adjacent to south west site corner in neighbouring property	
#140 <i>Castanospermum australe</i> (Qld Blackbean)	4.0m
Adjacent to western site boundary within neighbouring property	
#141 <i>Angophora floribunda</i> (Rough barked apple)	4.0m
Adjacent to western site boundary within neighbouring property	
#166 <i>Eucalyptus saligna</i> (Bluegum)	7.0m
Adjacent to the rear north west site corner	
#170 <i>Eucalyptus saligna</i> (Bluegum)	3.0m
Adjacent to rear north-west site corner	
#171 <i>Eucalyptus saligna</i> (Bluegum)	8.0m
Adjacent to rear north-west site corner	
#178 <i>Eucalyptus saligna</i> (Bluegum)	10.0m
Adjacent to rear north-west site corner	
#180 <i>Eucalyptus saligna</i> (Bluegum)	8.0m

Adjacent to rear northern site boundary

#184 *Erythrina sykesii* (Coral Tree) 7.0m

Adjacent to rear northern site boundary  
in neighbouring property

#189 *Eucalyptus saligna* (Bluegum) 5.0m

Adjacent to western site boundary

43. 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 three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority prior to the issue of the Occupation Certificate.
44. Paving works within the specified radius of the trunk/s of the following tree/s shall be constructed to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be submitted to the Principal Certifying Authority for approval by a suitably qualified professional prior to the commencement of paving construction:

Tree/Location	Radius From Trunk
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#4 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	6.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	7.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	4.0m (western side, 7.0m elsewhere)

#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	7.5m
#132 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	10.0m
#189 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary	5.0m

45. 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
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	7.0m
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	8.0m
#166 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the rear north west site corner	7.0m

46. 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
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	5.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	4.0m
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	3.0m

47. 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 the principal certifying authority prior to the issue of the Occupation Certificate

Tree/Location	Radius From Trunk
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	7.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	4.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	7.5m
#132 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	10.0m
#166 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the rear north west site corner	10.0m

48. 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.
49. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Munderah St. The tree/s used shall be 25 litre container size specimen/s:

Tree Species  
*Eucalyptus pilularis* (Blackbutt) x 2

50. 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

*Hedera sp.* (Ivy)

*Ligustrum lucidum* (Large-leaved Privet)

*Ligustrum sinense* (Small-leaved Privet)

51. 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.
52. If it is essential for scaffolding to be erected within a protected area, fencing should be erected to provide just sufficient space for scaffolding. The ground between this fence and the building should be protected by boarding (eg scaffold boards). A single thickness of boarding laid on the soil surface will provide sufficient protection for pedestrian loads, but more substantial boarding sufficient to spread the load should be used for heavier traffic. The ground beneath the boarding should be left undisturbed and should be protected with a porous geotextile fabric. If necessary, sand should be laid on the fabric to level the ground. When required, the building scaffolding should be erected. The boarding should be left in place until the building works are finished.
53. If temporary vehicle access is required near a tree to be retained, 75x75x2000mm hardwood planks are to be lain over a mulched area to a depth of 100mm with organic material being 75% leaf litter and 25% wood to distribute weight and to minimise compaction of soil profiles beneath. Timber lengths are to be secured on top of such to avoid movement and the structure should be constructed to accommodate vehicles that are to be used on site. Structural soil or similar should be used as a subgrade placed above existing soil levels for alternate driveway surfaces to support larger site vehicles or more rigid type temporary sealed road surfaces.
54. Tree protection signage is to be attached to each tree protection zone and displayed in a prominent position and the sign repeated at 10.0m intervals or closer where the fence changes direction. The signs to be a minimum size of 600mm x 500mm. Example details, as following:
1. Tree Protection Zone
  2. This fence has been installed to prevent damage to the trees and their growing environment contained within, to allow those trees to be retained as components of the existing landscape for incorporation into the landscape works for this site. It is the intent of this tree management process to retain these trees in a condition that is safe, viable and healthy, or a condition not less than that at the time of the commencement of this development
  3. Due to the critical nature of the Tree Protection Zone with regards to the long term viability of the tree/s, if encroachment or incursion into this zone is deemed to be essential the consulting Arborist should be informed to the undertaking of such works

4. Name, address, and contact details of the developer.
55. In the event of prolonged dry periods, or where a tree has been transplanted, or where excavation nearby, especially up slope, leads to the drying out of soil profiles closest to the tree/s, the tree/s is to be deep watered thoroughly at least twice a week. In the event of disrupted ground or surface water flows to the tree due to excavation, filling, or construction, an irrigation system is to be installed, consideration must be given to volume, frequency and drainage of water delivered, and this is to be in consultation with a qualified consulting Arborist.
56. Where tree protection measures are to be removed or altered this must be undertaken in consultation with the consultant Arborist to ensure tree protection is maintained.
57. Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped and connected to the piped Council drainage system within the site. Drainage line connections to the system shall conform and comply with the relevant detail within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe") within Ku-ring-gai Council Water Management Development Control Plan 47.
58. A mandatory rainwater re-use tank system comprising stormwater tanks and rainwater tanks of minimum volume totalling 471m<sup>3</sup>, as required in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47, 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. An additional **on-site detention** system of volume 613m<sup>3</sup> must be provided in accordance with the approved DA stormwater concept plans and supporting documentation.
59. 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 drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
60. A maintenance period of six (6) months shall apply to works in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
61. 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.

62. To ensure structural stability, footings to be located adjacent to easements and/or Council drainage pipes shall be sited and constructed so that all footings are located outside of easement boundaries. The applicant shall refer to Council Plan 80-011 concerning such works. Footings must extend to at least the depth of the invert of the adjacent pipe within the easement unless the footings are to be placed on competent bedrock. If permanent excavation is proposed beneath the obvert of the pipe within the easement, suitable means to protect the excavation from seepage or other water flow from the pipe and trench, and means to retain the easement and associated pipe cover, are to be provided by the applicant at no cost to Council. Council accepts no liability for such seepage or water flows now or at any time in the future resulting from such excavation.
63. 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. 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.**
64. 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.
65. 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".
66. 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.
67. 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](http://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.

68. 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).

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

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

Must be undertaken in accordance with the recommendations of the Pells Sullivan Meynik Pty Ltd Consulting Engineers (refer report number PSM858.L3 Rev2 dated 1st October 2004) and all subsequent geotechnical inspections carried out during the excavation and construction phase. Approval must be obtained from all affected property owners, including Ku-ring-gai Council where rock anchors (both temporary and permanent) are proposed below adjacent property.

70. The geotechnical works implementation, inspection, testing and monitoring program for the construction works must be in accordance with the preliminary geotechnical study **prepared** by Pells Sullivan Meynik Pty Ltd Consulting Engineers (refer report number PSM858.L3 Rev2 dated 1st October 2004). 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) and certification(s) of the geotechnical inspection, testing and monitoring programs.

71. 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.

72. 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.

73. In order to allow **unrestricted access at all times** for Council waste collection vehicles to the basement garbage storage and collection area, no doors, grilles, gates or other devices are to be provided in the access driveways to the basement car park which would prevent this service.
74. To ensure compliance with Australian Standard 2890.1 – 2004 “Off-Street car parking”, no dividing structures such as cages or partitioning walls shall be placed that divide individual car spaces. The parking layout design is approved based on an open space parking layout.
75. 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.
76. It is the **full responsibility** of the Applicant and their contractors to:
  - Ascertain the exact location of the Council drainage pipe traversing the site in the vicinity of the works, and
  - Take full measures to protect the in-ground Council drainage system, and
  - Ensure existing dedicated overland flow paths are satisfactorily maintained through the site.

Drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage and the like). All proposed structures and construction activities are to be sited fully clear of Council drainage pipes, drainage easements, watercourses and trunk overland flow paths on the site. Trunk or dedicated overland flow paths must not be impeded or diverted by fill or structures unless otherwise approved. In the event of a Council drainage pipeline being uncovered during construction, all work is to cease and the Principal Certifying Authority and Council must be contacted immediately for advice. Any damage caused to a Council drainage system must be immediately repaired in full as directed, and at no cost to Council.

77. No part of any building structure shall encroach over any easement and no loadings shall be imposed to utilities within any easement unless approved by the owner(s) appurtenant to the burden. This development consent does not set aside or affect in any way the exercise of any rights-at-law which may be conferred upon any parties by the existence and/or terms of the grant of any easements or rights-of-carriageway on or over the subject lot(s). It is the applicant's full responsibility to ensure that any rights-at-law are investigated and upheld. Council accepts no responsibility whatsoever, at any time, for any claim for any matter or thing arising from its approval to this application involving any encroachment or other influence upon any easement or right-of-carriageway. The applicant's attention is further directed to the rights of persons

benefited by any easement or right-of-carriageway concerning the entry and breaking up of a structure approved by this consent. In the event that such a structure causes damage, blockage, impediment or other thing requiring maintenance to infrastructure within the easement or right-of-carriageway, or access is required to carry out maintenance, Council accepts no responsibility in this regard now or in the future.

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

78. 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.

79. 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).
80. 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.

81. 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.
82. 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.
83. All windows of habitable rooms on the western and eastern elevations of Block D, the eastern elevation of Block E, and the western elevation of Block C are to be of translucent glazing to ensure privacy is maintained to these apartments. Details are to be shown on the Construction Certificate plans.
84. Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the street. Details demonstrating compliance are to be provided in the Construction Certificate (*Reason: To ensure quality built form of the development*).
85. The following energy efficiency devices are to be installed within the development:
- a) Gas boosted solar, heat pump or electricity boosted solar, instantaneous gas or high efficiency centralized gas hot water heating system.
  - b) Dual flush toilets.
  - c) Low flow taps and showerheads.
- Details are to be submitted for approved with the Construction Certificate (*Reason: To promote the use of energy efficient appliances*).
86. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS 1668.1. Details demonstrating compliance are to be provided with the Construction Certificate (*Reason: To preserve community health and ensure compliance with acceptable standards*).
87. All overhead electricity and other lines (existing and proposed) shall be undergrounded from the proposed buildings on the site to the appropriate power

pole(s) or other connection points, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate (*Reason: To provide infrastructure that facilitates future improvement of the streetscape by relocation of overhead lines below ground*).

88. Sixteen (16) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and level door handles and taps: such features to be designed generally in accordance with AS 1428.1 and AS 4299-1995 – Adaptable Housing. Details demonstrating compliance are to be submitted with the Construction Certificate (*Reason: to ensure equity of access and availability of accommodation in the future for an ageing population*).
89. One hundred and ten (110) of the proposed apartments are to be ‘*visitable housing units*’ in accordance with the requirements of AS 4299. These apartments are to be visitable by people who use wheelchairs. There must be at least one wheelchair accessible entry and path of travel to the living area and to a toilet that is either accessible (meeting the floor space requirements described in AS1428.1) or visitable toilet (minimum space of 1250mm in front of the toilet that is either accessible or visitable. Details demonstrating compliance are to be submitted with the Construction Certificate (*Reason: to ensure equity of access and availability for disabled persons*).
90. 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 140 ADDITIONAL DWELLINGS IS CURRENTLY \$2,583, 504.80. 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 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

91. 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.

92. A CASH BOND/BANK GUARANTEE of \$45,000.00 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

Tree numbers refer to Arborists Report by TALC dated 22 March 2005

#1 *Eucalyptus saligna* (Bluegum) \$3,000.00  
Adjacent to northern/Munderah St site boundary

#2 *Eucalyptus saligna* (Bluegum) \$3,000.00  
North east/Pacific Hwy/Munderah St site corner

#4 *Eucalyptus saligna* (Bluegum) \$3,000.00  
Adjacent to northern/Munderah St site boundary

#10 *Eucalyptus saligna* (Bluegum) \$3,000.00  
Adjacent to western site boundary/2 Munderah St

#11 *Eucalyptus saligna* (Bluegum) \$3,000.00  
Adjacent to western site boundary/2 Munderah St

#14 *Eucalyptus pilularis* (Blackbutt) \$3,000.00  
Adjacent to eastern/Pacific Hwy site boundary

#15 *Eucalyptus saligna* (Bluegum) \$3,000.00  
Adjacent to western site boundary/2 Munderah St

#25 *Eucalyptus saligna* (Bluegum) \$3,000.00  
Adjacent to eastern/Pacific Hwy site boundary

#27 *Cedrus deodar* (Himalayan Cedar) \$2,000.00  
Adjacent to eastern/Pacific Hwy site boundary

#73 *Afrocarpus falcata* (Brown Pine) \$1,000.00  
Adjacent to eastern/Pacific Hwy site boundary

#131 *Eucalyptus saligna* (Bluegum) \$6,000.00  
South west site corner

#132 *Eucalyptus saligna* (Bluegum) \$3,000.00  
South west site corner

#166 *Eucalyptus saligna* (Bluegum) \$6,000.00  
Adjacent to the rear north-west site corner

#171 *Eucalyptus saligna* (Bluegum) \$3,000.00  
Adjacent to rear north-west site corner

93. Prior to the issue of any Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollar) public infrastructure damage bond with Council. This bond is applied under the provisions of Section 97 of the Local Government Act to cover the restoration by Council of any damage to public infrastructure not repaired in full, 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 and 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.
  - c) Works in the public road associated with the development are to an unacceptable quality.
94. Prior to issue of any 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 Councils Water Management DCP 47 (available on the Council website). The design may be generally in accordance with the Stormwater Plan Report X04389-01 and corresponding drainage plans DA01, DA02, DA03, DA04 and DA05, dated December 2004, by Brown Consulting Engineers, submitted with the development application, and advanced as necessary for construction issue purposes.
95. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the Applicant must demonstrate to the Principal Certifying Authority that the necessary easement(s) for drainage have been created to benefit the entire (consolidated) lot. The easement is to be created over all intervening downstream private properties as far as Gilda Ave and is to be over the existing Council drainage pipeline to which connection is proposed. The terms shall be sufficiently wide enough to permit Council to allow the subject site to discharge its runoff into this piped system. The evidence must be in the form of registered title documents indicating the benefits as necessary. The intent of the condition is to ensure that the necessary easement for drainage is in place when works generating runoff (i.e. concrete pouring) are commenced.
96. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the Applicant must consolidate the existing Torrens lots. 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.
97. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, 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 approved with the Construction Certificate. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
98. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, 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 (Principal Certifying Authority).

99. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the Applicant shall contact Energy Australia with regard to power supply for the subject development. A written response detailing the full requirements of Energy Australia (including cabling, lighting, need for substations or similar within the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the relevant Construction Certificate issue. Any structures or requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate to the satisfaction of the PCA. The requirements of the utility provider shall be met in full prior to issue of the final Occupation Certificate.
100. Prior to issue of the Construction Certificate for works excluding site clearing and excavation, 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.

101. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, car washing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use, including pumps and back up power supply shall be shown on these designs to a detail suitable for installation by the plumbing services contractors. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
102. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of



achieving Council storage volume requirements for the on-site stormwater detention, retention and bio-retention systems. The minimum storage volumes and designs shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), any manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. The design is to be in accordance with the Stormwater Plan Report X04389-01 and corresponding drainage plans DA01, DA02, DA03, DA04 and DA05, dated December 2004, by Brown Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.

103. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, 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, detention and bio-retention devices. Plans and supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 and the relevant drainage codes. New connection points to the Council drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The design of these drainage components may be generally in accordance with the Stormwater Plan Report X04389-01 and corresponding drainage plans DA01, DA02, DA03, DA04 and DA05, dated December 2004, by Brown Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.
104. Prior to issue of a Construction Certificate for works excluding excavation and site clearing, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), revised plans for the basement and external vehicle access and accommodation arrangements. These plans must address the following details:
  - a) Removal of all doors, grates or security grilles which would prevent access to the respective garbage collection and visitor parking areas within each building. This requirement is specified in Councils DCP 40 and DCP 55.
  - b) One of the resident parking spaces is to be allocated as visitor parking, which will then satisfy the visitor parking requirement of the LEP.
  - c) On parking level 4, Space 1 is to be a minimum 2.8m wide due to the adjacent wall.
  - d) On Parking Level 4, the section of curved roadway between the curved ramp and space 30 must have a minimum outer radius of 11.8m instead of 11 metres and a central median of 0.6 metres is required (refer to clause 2.5.2 of Australian Standard 2890.1 – 2004 “Off-Street car parking” ).

- e) All disabled visitor parking spaces must have signposting (in accordance with AS1428.1) showing the direction to such spaces.
  - f) The transition at the bottom of 'Ramp 2' is to be minimum 2m long.
105. Prior to issue of a Construction Certificate for any works excluding excavation and site clearing, the Applicant must have detailed engineering plans approved by Council for the following works in the frontage Road Reserves:
- Construction of a fully new concrete footpath, 1.2 metres wide or as directed, over the full site frontage on the Pacific Hwy and Munderah Street.
  - Construction of fully new kerb and gutter on the development side in Munderah Street, between the Pacific Highway intersection and the existing kerb and gutter.

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 relevant Construction Certificate as stated. 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).

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. 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. 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.

106. In the interest of public safety, existing tree numbers 1, 2, 4, 10, 11, 14, 15 and 25, as identified with the submitted arborist's report, are to have further

investigative work undertaken including aerial inspections and resistograph testing to be undertaken by the consulting arborist prior to the issue of the construction certificate to determine their structural integrity as a result of previous storm damage and initial findings. Recommendations and works to be undertaken as a result of the further investigation is to be detailed in a report which is to be submitted to the principal certifying authority, with a copy to Council's assessing Landscape Development Officer. The recommendations and works detailed within the report are to be undertaken prior to the release of the construction certificate. In the event that the trees are recommended for removal, replacement trees of the same species with a minimum pot size of 45litre are to be planted within the same general vicinity.

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

107. 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.
108. 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
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	7.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	6.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	3.0m
#39 <i>Acer palmatum</i> (Japanese Maple) Adjacent to western site boundary/2 Munderah St	2.0m
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	2.0m
#123 <i>Camellia sasanqua</i> (Chinese Camellia) Adjacent to eastern site boundary within 1578 Pacific Hwy	4.0m
#127 <i>Eucalyptus nicholii</i> (Small leaf peppermint) Adjacent to eastern site boundary within 1578 Pacific Hwy	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	6.0m

#132 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	8.0m
#135 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to south west site corner in neighbouring property	10.0m
#140 <i>Castanospermum australe</i> (Qld Blackbean) Adjacent to western site boundary within neighbouring property	5.0m
#141 <i>Angophora floribunda</i> (Rough barked apple) Adjacent to western site boundary within neighbouring property	4.0m
#166 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the rear north-west site corner	6.0m
#170 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	3.0m
#171 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	8.0m
#178 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	10.0m
#180 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear northern site boundary	8.0m
#184 <i>Erythrina sykesii</i> (Coral Tree) Adjacent to rear northern site boundary in neighbouring property	7.0m

109. 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 driveway 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
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#4 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	6.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m

#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#189 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	5.0m

110. 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.
111. 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.
112. 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:
- Full road pavement width, including kerb and gutter, of Munderah Street between the western most boundary alignment and the Pacific Hwy, including the intersection
  - 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 written) *existing* damaged areas on the aforementioned infrastructure so that:

- Council is fully informed when assessing the 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.

113. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. 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 pedestrians and construction related vehicles in the frontage roadways,
- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in the frontage roadways,
- Location of any proposed crane standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible

**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 be 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.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

**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:

- Evidence of RTA concurrence where construction access is provided directly or within 20m of an Arterial Rd.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- 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 prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved

plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation. As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

**4. For traffic and pedestrian amenity purposes, no truck movements shall occur in Pacific Highway, Ada Avenue, or Munderah Street during school drop off (8:00am to 9:30am) nor during school collection hours (2:30pm to 4:00pm).**

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.

The proposed truck route is to be temporarily signposted for the duration of the demolition and construction works to indicate the proposed truck routes.

114. 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.
115. Prior to the commencement of any works on site, a closed circuit television (CCTV) inspection and report on the existing condition of the entire section of Council drainage pipeline traversing the subject property must be completed. The report must be provided to Council, attention Development Engineer, prior to issue of the Construction Certificate. The report is to include a copy of the video footage of the pipeline.

116. Prior to the commencement of construction works on site the Applicant must liaise with the RTA in relation to installing 'No Stopping' signage over the Pacific Highway frontage of the site. The general requirement for the installation 'No Stopping' signage over the Arterial Road frontages of construction sites is specified by RTA.
117. Prior to the commencement of **any excavation works** on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations. 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. The report shall have regard to protecting the Applicant from spurious claims for structural damage and must be verified by all stakeholders as far as practicable. Where the consulting geotechnical engineer is of the opinion that no dilapidation reports on adjoining structures are required, certification to this effect shall be provided for approval by the Principal Certifying Authority prior to any excavation. Upon submitting a copy of the dilapidation report to Council (or certification that no report is required), a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

118. The subdivision certificate must not be issued until a *final* Occupation Certificate is issued by the Principal Certifying Authority. This condition is imposed to ensure that all development works related to the subdivision are completed to an acceptable standard prior to transfer of responsibility for the site and development.
119. Prior to issue of the subdivision 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 site detention, retention and re-use, and bioretention facilities. The terms of the instruments are to be generally in accordance with the Council's terms of Section 88B instrument for protection of detention and retention and re-use facilities (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. The locations of the facilities within common property are to be denoted on the final plan of subdivision.
120. Prior to issue of the subdivision certificate an easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Ku-ring-gai Council.



- 121 For issue of the subdivision certificate the Applicant must submit an original instrument under Section 88B of the Conveyancing Act with the plan of subdivision, plus six (6) copies. This is to create all required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the same.
122. For issue of the subdivision certificate, the Applicant shall submit an original plan of subdivision plus six (6) copies suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of Subdivision and its six copies, where Council is the consent authority:
- a) The endorsement fee current at the time of lodgment.
  - b) The 88B Instrument plus six (6) copies,
  - c) A copy of the final Occupation Certificate issued under this consent.
  - d) The Section 73 (Sydney Water) Compliance Certificate for the subdivision.

All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention facilities, which are to be common property, must be included on the final plans of strata subdivision. Where Council is the consent authority, officers will check the consent conditions on the subdivision. Failure to submit the required information will delay endorsement of the linen plan, and may require payment of rechecking fees.

**Plans of subdivision and copies must not be folded. Council will not accept bonds in lieu of completing subdivision works. If the certifying authority is not Council, then a copy of all of the above must be provided to Council.**

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

123. 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.
124. A survey report shall be submitted to the Principal Certifying Authority prior to occupation, which certifies that the development has been constructed in accordance with the terms of this consent in relation to built upon area, building levels and setbacks.
125. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
126. 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.

127. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the preliminary geotechnical study prepared by Pells Sullivan Meynik Pty Ltd Consulting Engineers (refer report number PSM858.L3 Rev2 dated 1<sup>st</sup> October 2004) and subsequent geotechnical input must be compiled in report format and submitted to the Principal Certifying Authority for approval.
128. At the completion of works and prior to issue of the Occupation Certificate qualified practitioners must undertake a follow up closed circuit television (CCTV) inspection and then report on the existing condition of the entire section of Council drainage pipeline traversing the subject property. The report must be provided to Council, attention Development Engineer, prior to issue of the Occupation Certificate. The report is to include a copy of the video footage of the pipeline. Any damage to the pipe caused by the works shall immediately be repaired in full at no cost to Council.
129. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
- a) Completion of the new driveway crossing in accordance with levels and specifications issued by Council.
  - b) Completion of all works in accordance with the Council approved *Roads Act* plans.
  - c) Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
  - d) Full repair and resealing of any road surface damaged during construction.
  - e) 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. 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, crane use) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

130. Prior to issue of an Occupation Certificate the approved footpath and 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.

131. 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).
132. Prior to issue of an Occupation Certificate a suitably qualified consulting civil/hydraulic engineer is to provide engineering certification for approval by the Principal Certifying Authority (PCA). The certification is to make specific reference to each of the following aspects of the installed drainage and stormwater management measures:
- a) That construction of the stormwater drainage management systems has been carried out by a plumbing and engineering contractor licensed to do so.
  - b) All Sydney Water approvals have been obtained for the use of reticulated water.
  - c) That the as-built detention, retention and bioretention systems achieve the design storage volumes approved by the Principal Certifying Authority with the Construction Certificate (engineer must complete the form in appendix 4 of DCP47 in relation to the on-site detention system).
  - d) The as-built drainage layout (including pits, pipes, spreaders and the like) is in accordance with the relevant stormwater management and drainage plans approved by the Principal Certifying Authority with the Construction Certificate,
  - e) That all enclosed floor areas, including habitable and basement levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, grading and provision of stormwater collection devices.
  - f) The overall as built drainage and stormwater management systems will achieve the discharge control intent of the approved construction plans and Councils Water Management DCP47.
133. Prior to issue of an Occupation Certificate the applicant shall submit Works-as-Executed (WAE) drawing(s) to the Principal Certifying Authority in relation to the installed stormwater drainage and managements systems. These plans shall cover:
- a) Completed bio-retention basins and indicative levels within.
  - b) As built location and indicative internal dimensions of all detention and retention structures on the property (plan view) and horizontal distances to nearest adjacent boundaries and buildings on site
  - c) As built surface and invert levels for all drainage pits and junction points.
  - d) Gradients of drainage lines, materials and sizes.
  - e) As built level(s) at the approved point of discharge to the public drainage system.
  - f) As built locations of all access pits and grates in the detention, retention and bio-retention systems , including dimensions.
  - g) The size of the orifices or pipe controls fitted.
  - h) Dimensions of the discharge control pit and access grates.
  - i) The achieved capacity of the retention and detention storages and derivative calculations.
  - j) The maximum depth of storage over the outlet control for on-site detention.

- k) Top water levels of storage areas and indicative RLs through the escape flow path in the event of blockage of system.

The WAE(s) is to be prepared by a registered surveyor and shall show all critical constructed levels, materials and dimensions in comparison to those shown in the relevant designs approved by the Principal Certifying Authority with the Construction Certificate. All relevant details indicated must be marked in red on the Principal Certifying Authority stamped construction certificate stormwater drawings. The plan shall not be prepared until final surfaces (such as turf) are laid.

- 134. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):

- a) A copy of the approved Construction Certificate stormwater drainage plans which show the bio-retention systems, retention systems and detention systems.
- b) A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management,
- c) The Engineer's certifications of the as-built drainage, retention and detention systems as 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.

- 135. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include full dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that:

- a) Vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 "Off-Street car parking" and
- b) The revisions to the vehicle access and accommodation arrangements necessary under this consent, shown on the relevant approved Construction Certificate drawings, have been constructed, and
- c) No security doors, grilles or gates are provided which would prevent access to the garbage storage area by Councils waste collection vehicle, including the truck manoeuvring area for forward egress.

- 136. Prior to issue of the Occupation Certificate, the provision of separate underground electricity, gas and phone, or appropriate conduits for the same, must be provided to the site to the satisfaction of the utility provider. A suitably qualified and experienced engineer or surveyor is to provide certification that all new lots have ready underground access to the services of electricity, gas and phone. Alternatively, a letter from the relevant supply authorities stating the same may be submitted to satisfy this condition.

## BUILDING CONDITIONS

137. 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.
138. 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.
139. 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.
140. 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).
141. 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.
142. 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.

143. 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 Ryan, Councillors Andrew, Bennett, Cross, Ebbeck, Lane, Malicki*

*Against the Resolution:      Councillor Shelley*

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

326

### **8 to 12 Nola Road, Roseville**

File: DA1333/04

#### **Notice of Motion from Councillors G Innes and M Shelley dated 18 July 2005.**

We move that:

"Due to the unusual topographical and streetscape issues raised by DA1333/04, 8 to 12 Nola Road, Roseville (recognised in DCP 55 by the imposition of varied setback and building length controls for this area of Roseville):

1. A report from a consultant be obtained addressing the design issues raised for this development by SEPP 65;
2. The report address the conflicts between screening for privacy and the impact of such screening on solar access (given the overshadowing of nearby properties);
3. The report address the streetscape issues caused by the height of the proposed buildings in conjunction with the steepness of the site;

4. The report indicate whether the impact of all of the above issues could be reduced with a committed reduction in the number of units in the development;
5. The report to be brought back to Council at the same time as the Development Application."

(Moved: Councillors Shelley/Bennett)

That the above Notice of Motion as amended be adopted.

*For the Resolution: Councillors Bennett, Malicki and Shelley*

*Against the Resolution: The Mayor, Councillor Ryan, Councillors Andrew, Cross, Ebbeck, Lane*

*The above Notice of Motion when put to the vote was LOST*

## **GENERAL BUSINESS (cont)**

### **327 8 to 12 Nola Road, Roseville - Supplementary Report**

File: DA1333/04

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

**B Layton**

**R Gunn**

**The Mayor, Councillor Ryan vacated the Chair and  
the Deputy Mayor, Councillor Ebbeck assumed the Chair**

**P White**

**J Kricker**

**M Alexander**

**L Hunt**

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

**Resolved:**

(Moved: Councillors Lane/Andrew)

**The Mayor, Councillor Ryan resumed the Chair  
for the discussion**

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

THAT the Council, as the consent authority, grant development consent to DA 1333/04 for the demolition of existing structures on site and the construction of 14 x 2

bedroom and 18 x 3 bedroom dwellings within a single building, associated access, basement parking and landscaping on land at 8, 10 and 12 Nola Road, Roseville, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

## GENERAL

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

### Architectural Plans

Dwg. No.	Rev.	Description	Author	Dated	Lodged
AR DA 1 03-	Rev A	Site Plan	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-01	Rev A	Basement Plan (Level 001)	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-02	Rev A	Basement Plan (Level 002)	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-03	Rev A	Ground Floor Plan	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-04	Rev A	Level 01 to 03 Plan	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-05	Rev A	Level 4 Plan	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-06	Rev A	Roof Plan	Bates Smart	Dec 2004	20 Apr 05
AR DA 3-01	Rev A	Sect A-A	Bates Smart	Dec 2004	20 Apr 05
AR DA 3-02	Rev A	Sect B-B	Bates Smart	Dec 2004	20 Apr 05
AR DA 3-03	Rev A	Sect C-C	Bates Smart	Dec 2004	20 Apr 05
AR DA 3-04	–	Sect D-D	Bates Smart	Dec 2004	20 Apr 05
AR DA 3-05	–	Sect E-E	Bates Smart	Dec 2004	20 Apr 05
AR DA 4-01	–	North-east elevation	Bates Smart	Dec 2004	14 Dec 04
AR DA 4-02	–	South-west elevation	Bates Smart	Dec 2004	14 Dec 04
AR DA 4-03	–	North-west elevation	Bates Smart	Dec 2004	14 Dec 04
AR DA 4-04	–	South-east elevation	Bates Smart	Dec 2004	14 Dec 04

2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
  - 2A. All building works shall comply with the Building Code of Australia.
  - 2B. 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.
3. 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.
4. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority. *(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance).*



5. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
6. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

7. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
8. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
9. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
10. To maintain existing ground levels all excavated material shall be removed from the site.
11. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
12. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
  - a. The type and size of machinery proposed.
  - b. The routes of all trucks to convey material to and from the site.

- c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
- 13. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
- 14. 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.

- 15. 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.

- 16. 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.
- 17. Any fencing and associated footings shall be constructed entirely within the boundaries of the property.
- 18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
- 19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
- 20. 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.

21. 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.

22. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
23. 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.
24. 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.
25. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
26. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
27. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.

28. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
30. Fire hoses are to be maintained on site during the course of demolition.
31. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
32. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
33. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
34. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
35. 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.
36. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
37. "Peep holes" shall be provided to the entrance doors of all units for personal security.
38. Compliance with the notations overdrawn on the consent plans.
- 38A. A lapped and capped treated pine fence, 1.8 metres high (grading down to 1.2 metres toward Nola Road) shall be erected along the rear and side boundaries.

39. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to Council's stormwater pit in Nola Road via the approved site stormwater management 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.
40. A mandatory rainwater re-use tank system of minimum volume 110m<sup>3</sup> as shown in ARUP Stormwater Management Plan, together with any additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), 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. DCP47 is available in hard copy at Council and on the Council website. A mains top-up shall be provided for periods of low rainfall.
41. It is the Applicants and contractors full responsibility to ascertain the exact location of any drainage pipe traversing the site and take measures to protect them. All proposed structures are to be sited fully clear of any drainage easements on the site. Trunk or dedicated flow paths shall not be impeded or diverted by fill or structures unless otherwise approved. In the event of a pipeline being uncovered during construction, all work is to cease and the Principal Certifying Authority must be contacted immediately for advice.
42. **This development consent does not set aside or affect in any way the exercise of any rights-at-law which may be conferred upon any party or parties by the existence and/or terms of the grant of any easements or rights-of-carriageway on or over the subject property. It is the applicant's full responsibility to ensure that any rights-at-law are upheld. Council accepts no responsibility whatsoever, either now or in the future, for any claim for any matter or thing arising from its approval to this application involving any encroachment or other influence upon any easement or right-of-carriageway. The applicant's attention is further directed to the rights of persons benefited by any easement or right-of-carriageway concerning the entry and breaking up of a structure approved by this consent. In the event that such a structure causes damage, blockage or other thing requiring maintenance to infrastructure within the easement or right-of-carriageway, or access is required to carry out maintenance, Council accepts no responsibility in this regard now or in the future.**
43. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.

44. 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.
45. 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.
46. 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.
47. 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".
48. 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.
49. 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](http://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.

50. 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).
51. 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.
52. Convex mirrors are to be provided in the basement carpark as recommended in Colston Budd Hunt & Kafes Transport Report 3998/1, dated November 2004.
- 52A. Appropriate signage shall be erected and the exit driveway is to be splayed so as to direct exiting vehicles to the left of the central canary island palm/blue gum.
53. The works are to be carried out in accordance with the recommendations given in Coffey Geosciences Report S22012.1-AD, dated 23 November 2004, and subsequent geotechnical reports, including regular inspections during excavation works and geotechnical review of structural drawings and details.
54. 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. 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.
55. If during the course of the development works, it becomes apparent that either of the drainage easements affecting the site is in use, then the applicant is to demonstrate that the development will not impact on them to the detriment of upstream properties or the future occupants of the subject development. This is in relation to the capacity of the systems or the obstruction of any overland flowpath.
- 55A. The applicant shall construct kerb, gutter, road pavement, central island and footpath in Nola Road generally in accordance with Council Plan No.91-065, and in accordance with Council's Specification for Road and Drainage Works. The width between kerbs is to be 5.0m-5.5m, with a 1.2m wide footpath and where appropriate boardwalk behind the back of the southern kerb. Localised narrowing of the footpath around nearby trees is permitted. Detailed construction plans of the above works are to be submitted to Council and approved prior to release of the Construction Certificate.
- 55B. The applicant shall construct the kerb, gutter and road base, and apply a temporary wearing course (either 2 coat flush seal or 25mm AC10) in Nola Road prior to commencement of work. Prior to occupation, the applicant shall complete the wearing course to a total thickness of 50mm AC10.

## *Landscaping*

56. 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.

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.

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

58. 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.

59. 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).
60. 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.

61. 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.
62. 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 TWENTY NINE (29) ADDITIONAL DWELLINGS IS CURRENTLY \$551,033.78. 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	\$6,384.75
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

#### *Engineering*

63. 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.

64. 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.
65. All overhead electricity and other lines (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate. (Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground).

#### *Special*

66. An acoustic report shall be prepared by a suitably qualified person detailing the devices to be fitted and ongoing maintenance required, in relation to the automatic door to the garage, air-conditioning and car park ventilation system to ensure their operation does not result in the emission of noise in excess of 5dB(A) above background measured at the nearest residential property boundary. The report shall be provided for approval with the Construction Certificate and shall include recommendations with regard to the ongoing

maintenance of the noise attenuating devices. Certification of compliance with the recommendations contained in the report shall be submitted to the Principal Certifying Authority prior to the release of the final compliance certificate or occupation certificate. The burden of ongoing maintenance of these noise attenuating measures shall remain with the Managing body of the development.

67. Any exhaust ventilation from the car parks is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1. Details demonstrating compliance are to be provided with the Construction Certificate (*Reason: To preserve community health and ensure compliance with acceptable standards*).
68. Four (4) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps; such features to be designed generally in accordance with Australian Standards 1428.1 and 4299. Details demonstrating compliance are to be submitted with the Construction Certificate. (*Reason: To ensure equity of access and availability of accommodation in the future for an ageing population*).
69. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the building and is not to be located on the roof. Details demonstrating compliance are to be submitted with the Construction Certificate application. (*Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality*).
- 69A. To ensure privacy and amenity to the adjoining properties at No's 6 MacLaurin Parade and 5 Corona Avenue the following amendments shall be made to both the north-western and south-eastern elevations:
  - The lower part of the windows to the first, second and third floor study nooks shall be opaque and fixed up to a height of 1.7 metres above finished floor level.
  - Additional privacy screens measuring 1.8 metres high shall be affixed to the Level 5 terraces as notated in red.
  - Terrace areas as noted in red on Level 5 shall be non-trafficable for general use and limited access shall only be allowed for maintenance of the planter boxes.

Details demonstrating compliance with the condition shall be submitted to the PCA prior to the release of the Construction Certificate.

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

- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
- b. Retaining walls and associated drainage.
- c. Wet area waterproofing details complying with the Building Code of Australia.
- d. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Air-conditioning.
- e. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- f. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

### *Landscape*

70A. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

70B. The landscape plan by Aspect Sydney Landscape Architecture, Drawing no. DA 02, Revision B dated April 2004 (should read 2005) is not approved and will require the following amendments.

- To improve the solar access into the adjoining property the 5 evergreen trees proposed to be planted along the southern side of the units are to be replaced with deciduous species.
- To visually soften the proposed retaining wall located forwards of the units a ground cover species shall be planted along the top of the wall. The species chosen shall cascade or spill over the top of the retaining wall.

71. 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.

72. A CASH BOND/BANK GUARANTEE of \$10,000.00 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

Tree 1 - *Eucalyptus saligna* (Sydney Blue Gum)  
/ Nola Road reserve

Tree 2 - *Phoenix canariensis* (Canary Island Palm)  
/Nola Road reserve

Tree 3 - *Jacaranda mimosifolia* (Jacaranda)  
/ North western corner

Tree 4 - *Angophora costata* (Sydney Red Gum)  
/ Adjoining property No. 6A Nola Road

Tree 5 - *Magnolia grandiflora* (Bull-bay Magnolia)  
/ Adjoining property No. 6A Nola Road

Tree 6 - *Syzygium paniculatum* (Brush Cherry)  
/ Adjoining property No. 6A Nola Road

Tree 7 - *Brachychiton acerifolius* (Flame Tree)  
/ Adjoining property No. 6A Nola Road

Tree 8 - *Eucalyptus saligna* (Sydney Blue Gum)  
/ Adjoining property No. 6A Nola Road

Tree 21 - *Jacaranda mimosifolia* (Jacaranda)  
/ Adjoining property No. 6A Nola Road

Tree 33 - *Eucalyptus saligna* (Sydney Blue Gum)  
/ Western (front) boundary

Tree 49 - *Ulmus parvifolia* (Chinese Elm)  
/ Western (front) boundary

73. To preserve the following trees the trench for the stormwater pipe shall be hand dug and no roots greater than 50mm severed or injured. The stormwater management plan shall be amended to indicate these protection measures and

submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

- The stormwater management plan shall reflect the approved architectural plans.
- The stormwater management plan shall number all trees to be retained in accordance with the plan by Aspect Sydney, Drawing no. DA 06, Revision A, dated April 2004.

#### Tree/Location

Tree 3 - *Jacaranda mimosifolia* (Jacaranda)  
/ North western corner

Tree 4 - *Angophora costata* (Sydney Red Gum)  
/ Adjoining property No. 6A Nola Road

#### *Engineering*

74. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing three lots. 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. The condition is imposed to ensure a continuous structure will not be placed across separate titles.
75. Prior to issue of the Construction Certificate, footpath and driveway levels for the required 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. 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.

76. 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 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).
77. 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 retention/detention system. 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 the entire roof area as a minimum, and shall provide sealed lightproof storage. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
78. Permanent water quality measures are to be provided for the development, in accordance with Chapter 8 of DCP 47. Details are to be shown on the stormwater management plans and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
79. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, carwashing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use shall be shown on this design to a detail suitable for installation by the plumbing contractor. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
80. A dedicated car washing area is to be shown on the Construction Certificate plans. The waste collection vehicle manoeuvring area or a visitor parking bay may be used for this facility. The plans are to be approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
81. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, 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. New connection points to the

public drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004.

82. Prior to the issue of a Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollars) public infrastructure damage 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 and 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.
  - c) Works in the public road associated with the development are to an unacceptable quality.
83. 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).
84. 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.
85. 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 cabling, need for substations or similar within the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate to the satisfaction of the PCA. The requirements of the utility provider shall be met in full prior to issue of the Occupation Certificate.

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

86. 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.



## *Special*

87. A photographic record of the dwelling at **No. 12 Nola Road** shall be submitted to Council prior to the commencement of work. A report to be submitted and approved to the heritage officer's satisfaction prior to commencement of the work and prior to issue of a Construction Certificate.

The report is to be prepared by a heritage consultant included in the NSW Heritage Office list of recognized consultants or other suitably qualified consultants who have knowledge and experience in preparing archival recording documents.

The report is to be a bound A4 report and must include copies of drawings submitted with the application including site surveys and specialist reports such as heritage assessments, dilapidation report, and builders or engineers reports. Three copies of the report to be submitted, one copy with negatives. Any archival documents such as family records, old photographs should also be included.

All photographs to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. A photographic recording sheet to be included. Photographs of the following:

- Each elevation
- Photographs of specific details nominated by Council
- All structures on site such as sheds, outhouses and significant landscape features
- Several photographs of house from public streets or laneways including several views showing relationship to neighboring buildings.

Minimum requirements:

- Title page
- Statement of reasons the recording was made
- Location Plan showing relationship of site to nearby area
- Site plan to scale (1:200 – 1:500) showing all structures and site elements
- Floor Plan (1:100)
- Black & White archival quality photographs, contact prints with negatives and selected prints (one copy of negatives other copies with contact sheets and selected prints)
- Colour slides (one set)
- Colour photographs (one copy with negatives)

Digital images and CDs may be submitted as supplementary information.

- 87A. Simple photographic records of Nos 8 and 10 Nola Road shall be submitted to Council prior to the commencement of work. Recording shall be undertaken in accordance with the *Guidelines for Photographic Recording of Heritage Sites, Building and Structures* prepared by the New South Wales Heritage Office.

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

### *Landscaping*

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

Tree/Location

Tree 1 - *Eucalyptus saligna* (Sydney Blue Gum)  
/ Nola Road reserve

Tree 2 - *Phoenix canariensis* (Canary Island Palm)  
/Nola Road reserve

Tree 3 - *Jacaranda mimosifolia* (Jacaranda)  
/ North western corner

89. To preserve the following tree no work shall commence until the following protective measures are carried out.
- All lower dead palm fronds are to be removed.
  - The lower fronds shall be tied up to raise the canopy and prevent damage or ripping of the palm fronds by passing work vehicles.

Tree/Location

Tree 2 - *Phoenix canariensis* (Canary Island Palm)  
/Nola Road reserve

90. 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
Tree 4 - <i>Angophora costata</i> (Sydney Red Gum) / Adjoining property No. 6A Nola Road	3m

Tree 5 - <i>Magnolia grandiflora</i> (Bull-bay Magnolia) / Adjoining property No. 6A Nola Road	3m
Tree 6 - <i>Syzygium paniculatum</i> (Brush Cherry) / Adjoining property No. 6A Nola Road	3m
Tree 7 - <i>Brachychiton acerifolius</i> (Flame Tree) / Adjoining property No. 6A Nola Road	3m
Tree 8 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / Adjoining property No. 6A Nola Road	5m
Tree 21 - <i>Jacaranda mimosifolia</i> (Jacaranda) / Adjoining property No. 6A Nola Road	3m
Tree 33 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / Western (front) boundary	4m
Tree 49 - <i>Ulmus parvifolia</i> (Chinese Elm) / Western (front) boundary	3m

Note: All trees located on the adjoining property to be fenced off within the subject site only.

91. 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.
92. 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.

### *Engineering*

93. 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 Nola Road and Maclaurin Parade including full road width, kerb and gutter, and the intersection. The report must be completed by a consulting structural/civil engineer. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council. Other Council roads in the area are not available for construction traffic apart from vehicles less than 3.0 tonne gross unless written approval is received from Council and a dilapidation report has been completed on the roads.
94. Prior to the commencement of bulk excavation on the site, the applicant shall submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) results of excavation trials and vibration monitoring as

recommended in Coffey Geosciences Report S22012.1-AD, dated 23 November 2004. This is to ensure that vibration created by the method of construction does not adversely impact on the surrounding properties and infrastructure. A qualified and practising geotechnical engineer must oversee the excavation trials and all associated investigations. Excavation is to proceed in accordance with the recommendations of the geotechnical engineer.

95. Prior to the commencement of bulk excavation on the site, the applicant shall submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council), full dilapidation reports on the visible and structural condition of all neighbouring buildings within the 'zone of influence' of the excavation. This includes the structures at 6 and 6a Maclaurin Parade, and 26a Pacific Highway ("Maclaurin Court"). The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted Report No. S22012.1-AD by Coffey Geosciences, dated 23 November 2004. A second dilapidation report, recording structural conditions of all structures originally assessed prior to issue of the Construction Certificate, must be carried out at the completion of the works and be submitted to Council. 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.
96. Prior to the commencement of *any* works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. 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,
    - All traffic is to use Maclaurin Parade. No site traffic is to use Corona Avenue.
    - Traffic controller(s) are to manage construction traffic movements at the intersection of Nola Road and Maclaurin Parade.
    - No construction vehicles are to be parked in Nola Road.
    - Warning signs in Maclaurin Parade of siteworks ahead;
    - 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 where possible
    - Basement areas should be given priority to be completed to a standard capable of operating as parking for employee and construction vehicles. Once complete, construction employees are to

use the basement parking area for their vehicles. Prior to this, construction employees shall not park in Nola Road.

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.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

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.
- The proposed truck route is to be temporarily signposted for the duration of the demolition and construction works to indicate the proposed truck routes.
- That management of the heavy vehicles used for demolition and construction be arranged to ensure that no more than two vehicles arrive or depart on or from the site during the works to avoid queuing.

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 shall 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.

97. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee for its installation. Further, 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. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed and the adopted fee paid prior to commencement of any works on the site. Where such a 'Work Zone' is not considered to be feasible by Council Traffic Engineers, the zone will not be required. This condition is to facilitate a dedicated on-street parking area for construction related vehicles during work hours. A need for a 'Work Zone' may arise given the scale of the works, limited site frontage and lack of available on-street parking in this location.
98. 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.
- 98A. An acoustic report shall be prepared by a suitably qualified person detailing the devices to be fitted and ongoing maintenance required, in relation to the automatic door to the garage, air-conditioning and car park ventilation system to ensure their operation does not result in the emission of noise in excess of 5dB(A) above background measured at the nearest residential property boundary. The report shall be provided for approval prior to the release of the Occupation Certificate or final Compliance Certificate and shall include recommendations with regard to the ongoing maintenance of the noise attenuating devices.

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

99. 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.
100. Without further written Consent of Council the development is to comply with the following indices:
  - a. Maximum floor space ratio 1.235:1.
  - b. Maximum building footprint area 1060m<sup>2</sup> or 32% of site area.
  - c. Number of resident car parking spaces: 50.
  - d. Number of visitor car parking spaces: 8
  - e. Deep soil landscape area shall not be less than 1635m<sup>2</sup> or 50% of the site area.
  - f. Maximum height of top floor ceiling not to exceed RL 104.7.

A Surveyor's Certificate is to be submitted to the Principal Certifying Authority confirming compliance with a, b, e and f above prior to occupation.

### *Engineering*

101. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
- a. Completion of the new driveway crossings in accordance with levels and specifications issued by Council.
  - b. Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
  - c. Full repair and resealing of any road surface damaged during construction.
  - d. 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. 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, crane use) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

102. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as recommended in Coffey Geosciences Report S22012.1-AD, dated November 2004 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.
103. 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 retention/detention facilities (including all ancillary reticulation plumbing) on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88B instruments for protection of on-site retention/detention facilities (DCP47 appendix 14) 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 issue of an Occupation Certificate.
104. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
- a. A copy of the approved Construction Certificate stormwater retention/detention design for the site, and

- b. A copy of the works-as-executed drawing of the as-built on-site retention/detention 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.

105. 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).
106. Prior to issue of an Occupation Certificate a certification and a works-as-executed (WAE) plan, in relation to the installed rainwater retention/detention devices, are to be submitted to the Principal Certifying Authority (PCA). 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 state compliance with each of the relevant controls set out in appendix 6.2 of Council Water Management Development Control Plan 47. The Works-as-Executed drawing(s) is to be marked up in red on the approved Construction Certificate design, and shall include:
  - As constructed levels in comparison to design levels
  - As built location of all tanks/retention devices on the property and distances to adjacent boundaries, buildings and easements
  - Dimensions of all retention tanks/devices
  - Top water levels of storage areas and RLs at overflow point(s).
  - Storage volume(s) provided and supporting calculations/documentation.

For any on-site detention control installed, a separate 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)
107. Prior to issue of an Occupation Certificate 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 issue of an Occupation 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.
108. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” and the parking layout plans approved for the Construction Certificate.
109. Prior to issue of the Occupation Certificate the applicant shall submit **to Council** a follow up dilapidation report on the visible (including photos) and structural condition of Nola Road and Maclaurin Parade including full road width, kerb and gutter, and the intersection. The report must be completed by a consulting structural/civil engineer. The structural conditions of all structures originally assessed prior to the commencement of works, must be assessed and the results submitted to Council.
110. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, an easement for waste collection must be provided. This is to permit legal access for Council, and Council’s contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council’s contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council’s draft terms for an easement for waste collection.

## Landscaping

111. 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.
112. To protect a *Eucalyptus saligna* (Sydney Blue Gum) and a *Phoenix canariensis* (Canary Island Palm) located within Nola Road permanent bollards shall be installed around the trees prior to the release of the Certificate of Occupation.

The bollards shall be as follows;

Type: 'Moodie Ausite Trojan' with metal cap 100 square

Description: Square timber bollard 100x100x1500

Supplier: Moodie Innovative Solutions

Product No: Code: 13022

Finish: Natural timber finish with 2 coats Cabots 'weathered cedar' see-through stain with gal cap powder-coated white

Spacing: 1200mm

Fixing: In ground 600 deep, 900 above ground in concrete footing to fix securely. Do not damage tree roots when excavating, backfilling or working around trees.

- 112A. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
- 113A. On completion of the landscape works and the installation of the bollards around the trees within Nola Road, 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

113. 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.
114. 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.
115. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

<b>Risers:</b>	<b>Maximum 190mm</b>	<b>Minimum 115mm</b>
<b>Going (Treads):</b>	<b>Maximum 355mm</b>	<b>Minimum 240mm</b>

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.

116. 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.

117. 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 & Air-conditioning.
  - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
  - d. Storm-water disposal details complying with Council's Storm-water Management Manual and/or other conditions of this consent.
  - e. A Compliance Certificate from a suitably qualified person that the residential flat buildings complies with the relevant deemed to satisfy provisions of the Building Code of Australia.
  - f. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.
  - g. A Registered Surveyor's Report on completion of footings but before external walls are above floor level verifying compliance with this consent.
  - h. A Registered Surveyor's Report confirming approved levels of the ground floor.
  - i. A Registered Surveyor's Report confirming approved levels of the first floor.
  - j. A Registered Surveyor's Reports confirming approved floor levels for all floors.

- k. A registered surveyors report confirming the deep soil landscaped area is no less than 50% of the site area (as defined in the Ku-ring-gai Planning Scheme Ordinance).

*For the Resolution: The Mayor, Councillor Ryan, Councillors Andrew, Ebbeck, Lane*

*Against the Resolution: Councillors Bennett, Cross, Malicki and Shelley*

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

*The above Motion was carried as a Foreshadowed Motion to the Original Motion which was LOST and the Foreshadowed Motion was subject to an Amendment which was also LOST.*

*The Original Motion was:*

THAT Council, as the consent authority, refuse consent to Development Application No. DA 1388/04 for the demolition of existing structures on site and construction of a residential flat building on land at No. 8-12 Nola Road, Roseville for the following reasons:

## **1. Character of the area**

The proposed residential flat building is inconsistent with the desired future character of the Nola Road precinct.

Given the likely impacts of the development on the natural and built environments and the social and economic impacts in the immediate locality, the proposed development does not fulfil the requirements of either the Environmental Planning & Assessment Act 1979 (as amended) nor the principles established in DCP 55.

*Particulars:*

- (i) Section 79C(1)(b) likely impacts on the natural and built environments, and social and economic impacts in the locality.*
- (ii) Section 79C(1)(c) suitability of the site.*
- (iii) Part 7.1.2 Desired future character and design objectives for development in the Nola Road precinct (objectives 1-8)*

## **2. Streetscape**

The bulk and scale of the development in association with the reduced front setbacks and restricted street width result in a development that dominates the street context and is out of character with the Nola Road precinct. Further, DCP 55 allows for reduced setbacks and increased building lengths as compared to other areas of Ku-ring-gai, which the proposed development fails to comply. Given the increased allowances it was anticipated that any developments would fully comply in all respects.

*Particulars:*

- (i) *Section 79C(1)(b) – Likely impacts of the development*
- (ii) *The development is non-compliant with Part 4.3(C-8) of DCP 55, in that the front setback to Nola Road is 9.5m at the basement level, in lieu of the required control of 10-12 metres.*
- (iii) *The development fails to satisfy the built form design objectives as outlined in Part 7.1.4 of DCP 55 as they relate to the Nola Road precinct (objectives 1-6).*
- (iv) *The development is non-compliant with Part 4.4(C-1) of DCP 55, in that the north-west and south-east elevations contain a wall plane of 96m<sup>2</sup> in lieu of the 81m<sup>2</sup> (max) wall plane area control:*
- (v) *The development fails to satisfy the building articulation design controls as outlined in Part 7.1.5 of DCP 55 as they relate to the Nola Road precinct (objectives 1-6).*

**3. Blue Gum Creek**

The development has an adverse impact on the proposed rehabilitation of Blue Gum Creek and its tributary, locally known as Little Blue Gum Creek, and the revegetation zone established in DCP55 for the locality.

*Particulars:*

- (i) *Part 7.1.6 Blue Gum Creek Design Objectives (C1-C2)*

**4. Residential Amenity**

The development has an unsatisfactory privacy impact upon the neighbouring dwellings. Further, there is a conflict between addressing the unsatisfactory privacy impact and the solar access of the neighbouring town houses.

*Particulars:*

- (i) *The development is non-compliant with Part 4.5.2 of DCP 55, in that the visual separation between the subject development and the neighbouring dwellings at 5 Corona and 6 Nola Road is less than the required 12m and 18m separation as required by the DCP at Levels 1-4 & 5, respectively, details of the non-compliance are as follows:*
  - 10m to Town House 3 at 5 Corona Road (Levels 1-4)*
  - 15m to Town House 3 at 5 Corona Road (Level 5)*
  - 8m to 6 Nola Road (Levels 1-4)*
  - 10m to 6 Nola Road (Level 5)*
- (ii) *Proposed solar access for the adjoining two-storey townhouses on the south-eastern boundary is limited to 2.5 hours between 9am and 3pm at the winter solstice.*
- (iii) *Insufficient screen planting between the subject development and the surrounding residential properties.*

**5. Energy efficiency**

The development fails to provide adequate energy efficiency levels which will result in unsatisfactory amenity for the occupants of the development.

*Particulars:*

- (i) *The development is non-compliant with Part 4.8.1 (C-4) of DCP 55, in that the development proposes a 4-5 star rating for 855% of the units in lieu of the required 90% (min) control as prescribed by the DCP.*

**6. Solar Access**

The development results in unsatisfactory overshadowing of the townhouses at No. 5 Corona Rd.

*The Lost Amendment was:*

(Moved: Councillors Malicki/Shelley)

That the matter be deferred for a further report on SEPP 65 issues in regard to this development from an independent Consultant.

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**1 Russell Avenue, Lindfield - Demolition of Existing Buildings & Construction of Seven (7) Townhouses Plus Basement Car Parking – Strata Subdivide**

File: DA1174/04-2

To determine development application No. 1174/04, which seeks consent for the demolition of all existing structures on site and construction of a 3 storey townhouse development comprising seven attached townhouses and basement car parking for 16 vehicles

**Resolved:**

(Moved: Councillors Shelley/Lane)

THAT Council, as the consent authority, refuse development consent to Development Application No. 1174/04 for demolition of existing structures on site and construction of seven (7) townhouses in an attached arrangement, basement car parking and associated access and landscaping on land at 1 Russell Avenue, Lindfield, as shown on plans drawn by Revay & Unn, numbered DA-04(B), 05(B), 06(B), 07(C), 08(B) and 09(B), dated April 2005, received by Council 4 May 2005, and amended plans numbered DA-01(C), 02(C), 03(C), and GD01(C), dated May 2005, received by Council 10 June 2005 for the following reasons:

**Streetscape and visual impact**

1. The proposed front setbacks to Russell Avenue and Lindfield Avenue, the eastern side setback and the design of the front elevation of the proposed townhouses results in an undue imposition of built form upon the streetscape and upon adjoining properties.

**Particulars:**

- a. A front setback of 8.5 metres has been provided to Russell Avenue where a minimum of 10 metres is required. This limits the potential for deep soil zones and tall tree canopy as required by LEP194 and DCP55 and has consequent adverse impact on the Russell Avenue streetscape (*Refer: LEP194 Section 25D Heads of Consideration (b), DCP55 Part 4.3 Control C-1*).
- b. The proposed setback of approximately 5.0m from the Lindfield Ave frontage is inadequate for use as a deep soil zone and would be insufficient for tree replenishment. This prevents establishment of a tall tree canopy within deep soil zones as required by LEP194. (*Refer: LEP194, Section 25D Heads of Consideration (a)(b), DCP55 Part 4.3, Control C-1*).
- c. Limited setback has been provided along the eastern side boundary of the site, where a setback of 1.0 metre has been provided to the basement car park. This prevents establishment of a tall tree canopy within deep soil zones as required by LEP194. (*Refer: LEP194, Section 25D Heads of Consideration (a)(b), DCP55 Part 4.3, Control C-1*).
- d. The proposed townhouse development does not comply the zone interface control along the eastern and southern boundary, would not result in an appropriate transition in scale between adjoining properties and would have an undue visual bulk to the street and adjoining properties. (*Refer: LEP194 Clause 25L Zone interface and DCP 55 Part 4.3 Control C-1*).

**Over-development of the site**

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

**Particulars:**

- a. The development site is a comparatively small lot for townhouse development, having a total site area of 1131m<sup>2</sup>, a shortfall of 69m<sup>2</sup> less than the minimum site area requirement. The site is further constrained by its corner location and narrow width of 16.5m adjacent to the Russell Avenue frontage. (*Refer: LEP194 Clause 25D Objectives for residential zones and Clause 25E, DCP55 Part 4.3, Control C-1*).
- b. The proposed development application has failed to demonstrate that the proposed townhouses could otherwise comply with the provisions of Clause 25I(4) of the KPSO to allow multi-unit housing on sites less than 1200m<sup>2</sup>, in that it fails to meet all other requirements of the KPSO. (*Refer: LEP194 Clause 25I(4) Multi-unit housing on smaller sites, Clause 25I(2) Deep soil landscaping and Clause 25L Zone interface*).
- c. The proposal provides a maximum of deep soil landscaping area of 32.6% (368m<sup>2</sup>), which fails to meet the minimum deep soil landscaping of 40% of the total site area as required by cl.25I(2). (*Refer: LEP194 Clause*

25I(2) Deep soil landscaping and DCP 55 Part 4.1 Controls C-2, C-3 and C-5).

- d. The proposed townhouse development does not comply with the zone interface control along the eastern and southern boundary, would not result in an appropriate transition in scale and would have an undue impact on the street and adjoining properties. (Refer: LEP194 Clause 25L Zone interface and DCP 55 Part 4.3 Control C-1).
- e. The site has a total area of 1131m<sup>2</sup> and is less than the minimum site area required for multi-unit housing (cl.25E). The proposed townhouse development results in a floor space ratio of 0.88:1 (996m<sup>2</sup>) which exceeds the maximum of 0.8:1 for townhouse development. The proposed townhouse development is an overdevelopment of a small site. (Refer: LEP194 Clause 25D, Clause 25E, Clause 25L and Clause 25I(2) and DCP 55 Part 4.2, Control C-4).
- f. The proposed townhouse development does not comply the zone interface control along the eastern and southern boundary, would not result in an appropriate transition in scale and would have an undue impact on the street and adjoining properties. (Refer: LEP194 Clause 25L Zone interface and DCP 55 Part 4.3 Control C-1).
- g. The proposed townhouses exceed the maximum 3 storey height requirement. The driveway and basement level car parking would result in part of the basement level projecting greater than 1.2m above ground level. This constitutes a 'storey', as defined by Clause 25I(9) of the Ku-ring-gai Planning Scheme Ordinance and results in a 4 storey development on the site. This is indicative of the dominance of the proposed townhouses. (Refer: LEP194 Clause 25I(5) Maximum number of storeys and Clause 25I(9)).

### **SEPP 1**

- 3. No SEPP 1 objection has been submitted to address non-compliance with the minimum site area provisions contained within Clause 25E of the Ku-ring-gai Planning Scheme Ordinance.

#### **Particulars:**

- a. The site has a total area of 1131m<sup>2</sup> and is less than the minimum site area required for multi-unit housing by Clause 25E of the Ku-ring-gai Planning Scheme Ordinance.
- b. The proposal relies upon the provisions of Clause 25I(4) 'Multi-unit housing on smaller sites' which allows that:

*“multi-unit housing may be carried out within Zone No 2 (d3) on a site that has a site area of less than 1,200 square metres,... if the proposed development complies with all other requirements of this Ordinance.”*

The proposal does not comply with all other requirements, therefore a SEPP 1 objection to the provisions of Clause 25E is required.



4. No SEPP 1 objection has been submitted to address non-compliance with the minimum standards for deep soil landscaping contained within Clause 25I(2) of the Ku-ring-gai Planning Scheme Ordinance.

Particulars:

- a. The deep soil zone provision is 32.6%, rather than the 43.4% as suggested within the application. A SEPP1 objection is required to address the departure from Council's standard. (*Refer LEP194 Section 25I(2)(b)*).
5. No SEPP 1 objection has been submitted to address non-compliance with the maximum site coverage provisions contained within Clause 25I(6) of the Ku-ring-gai Planning Scheme Ordinance.

Particulars:

- a. The proposal development would result in a building footprint which is the equivalent of the 40.2% of the total site area, some 2m<sup>2</sup> in excess of the maximum requirement of 40% as stipulated by Clause 25I(6) of the Ku-ring-gai Planning Scheme Ordinance. (*Refer LEP194 Section 25I(6)*).
6. The SEPP 1 objection to the provisions of Clause 25L 'Zone interface' of the Ku-ring-gai Planning Scheme Ordinance submitted with the application is not acceptable as the development would not result in an appropriate transition in scale and would have an undue impact on the street and adjoining properties. (*Refer: LEP194 Clause 25L Zone interface and DCP 55 Part 4.3 Control C-1*).

Particulars:

- a. The proposed development breaches the zone interface control along the eastern boundary. The proposed second floor bedrooms and third floor bedroom/study to Townhouse 1 are setback 2.2m from the eastern boundary where a 9 metre setback is required.
- b. The proposed development breaches the zone interface control along the southern boundary. The proposed third floor bedrooms to Townhouse 6 are setback 6.7m from the southern elevation where a 9 metre setback is required.
- c. The SEPP 1 Objection has not demonstrated that the objective or purpose of the standard has been satisfied.
- d. The proposal results in an abrupt change in scale in the street, does not provide for sufficient separation between existing single storey development in the street and would result in development which has an excessive bulk and scale to the street and adjoining properties.
7. No SEPP 1 objection has been submitted to address non-compliance with the maximum number of storey standard contained within Clause 25I(5) of the Ku-ring-gai Planning Scheme Ordinance.

Particulars:

- a. The proposed townhouses exceed the maximum 3 storey height requirement and would be overly dominant on the site.

### **Residential amenity**

8. The proposed development application has failed to provide for adequate visual privacy and has failed to demonstrate that the proposed townhouses will not result in a detrimental shadow impact to adjoining development to the east in accordance with the provisions of DCP55.

#### **Particulars:**

- a. Windows and decks on the ground floor and bedroom windows on the first floor of Townhouse 1, Townhouse 3 and Townhouse 4 are elevated above the adjoining site to the east (No. 3 Russell Avenue), are situated too close to the side boundary with that site and will overlook the adjoining property to the east to an unacceptable level. (*Refer: DCP55, Part 4.3 Control C-1, Part 4.5.2 C-6* ).
- b. Limited setback has been provided along the eastern side boundary of the site, where a setback of 1.0 metre has been provided to the basement car park. This prevents establishment of adequate screening and tall tree canopy within deep soil zones as required by LEP194. (*Refer: DCP55, Part 4.3 Control C-1*).
- b. Shadow diagrams submitted with the development application have failed to provide sufficient detail regarding the likely shadow impact of the proposed townhouses on adjoining properties during the equinoxes (March and September). (*Refer: DCP55, Part 4.5 Objective O-2*).

### **Access**

9. The development application does not include an access report to demonstrate compliance with Part 4.7 and Appendix F of DCP 55. requires that at least 70% of units are visitable in accordance with Appendix F of the DCP.

#### **Particulars:**

- a. Part 4.7 of DCP 55 requires that at least 70% of units are visitable in accordance with Appendix F.

**CARRIED UNANIMOUSLY**

**Council adjourned for a short interval at 10.20pm  
after a Motion moved by Councillors Ebbeck & Andrew was CARRIED  
and the Chairperson ruled accordingly.  
The Meeting resumed at 10.30pm**

Those present were:

The Mayor, Councillor Ryan  
Councillor Andrew  
Councillor Malicki  
Councillor Bennett  
Councillor Cross  
Councillor Ebbeck

Councillor Shelley  
Councillor Lane

*Council resolved itself into Closed Meeting  
with the Press and Public Excluded to deal with the following item:*

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

329 **1580 to 1596 Pacific Highway, Wahroonga - Commence Prosecution Proceedings**

File: DA1081/04

**Notice of Motion from Councillor E Malicki dated 19 July 2005.**

I move that:

"Council immediately commence prosecution proceedings against the developer of 1580 to 1596 Pacific Highway, Wahroonga for breaches of conditions of consent for a development application for demolition and also for breaches of the Tree Preservation Order."

**Resolved:**

(Moved: Councillors Malicki/Cross)

That the Notice of Motion be amended to read:

1. That staff bring back to Council a confidential report on this matter after completing 1-8 from pages 6 & 7 of the legal advice and after seeking witnesses from people who attended the site inspection including Council's consultant.
2. That the legal advisors chosen to conduct the case to have extensive experience in tree removal issues.
3. That we seek legal advice on prosecuting under the Tree Preservation Order in addition to the prosecution already lodged and the inclusion of as many trees as possible in the prosecution regardless of whether they were of a size to be protected by the Tree Preservation Order.
4. Every necessary resource be put into achieving a successful prosecution of this matter.

**CARRIED UNANIMOUSLY**

**To Open Council**

The Mayor adverted to the consideration of the matters referred to in Minute numbered 329, and to the resolution contained in such Minute.

## **QUESTIONS WITHOUT NOTICE**

330 **Relocation of Netball Courts to Greenwood Quarry**

File: S02268

Question Without Notice from Councillor E Malicki

Can Council have a report back on progress of the investigations into the use of Greenwood Quarry for netball facilities so that we can satisfy the residents who are concerned about the mediated agreement whose time is running out and if there is no action on this, can Council be considering relocating 4 of the netball courts from Canoon Road to Lofberg Road for the next netball season?

### **Answer by the Director Open Space**

The answer to both questions is Yes.

331 **Recruitment - Geotechnical Expertise**

File: S02253

Question Without Notice from Councillor L Bennett

When will Council acquire in-house geotechnical expertise?

### **Answer by the Director Technical Services**

There is nothing in the Technical Services budget to employ additional technical engineers.

332 **St Ives Centre Retail Zone**

File: S04019

Question Without Notice from Councillor L Bennett

Can I have an estimate of retail zone area currently available in St Ives Centre (potential area not utilised area)?

### **Answer by the Director Open Space**

Yes, I will provide that information.

## **INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS**

The next Inspections Committee will take place on Saturday, 13 August 2005 to view the following properties:

1691 to 1693 Pacific Highway, Wahroonga  
38 Owen Street, Lindfield  
11 Gregory Street, Roseville

### **NOTE:**

During the meeting, the General Manager informed the Council that a Notice of Rescission has been received in relation to GB.11 - 8 to 12 Nola Road, Roseville (Minute No 327).

*The Meeting closed at 11pm*

The Minutes of the Ordinary Meeting of Council held on 9 August 2005 (Pages 1 - 117) were confirmed as a full and accurate record of proceedings on 23 August 2005.

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General Manager

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Mayor / Chairperson