

## MINUTES OF KU-RING-GAI PLANNING PANEL HELD ON WEDNESDAY, 8 APRIL 2009

Present: Bill Tsakalos (Chairperson)  
Vince Berkhout

Staff Present: General Manager (John McKee)  
Director Development & Regulation (Michael Miocic)  
Senior Governance Officer (Geoff O'Rourke)

*The Meeting commenced at 5.01pm*

### PP7 **APOLOGIES**

File: S06347

Ms Elizabeth Crouch tendered an apology for non-attendance [business commitment] and requested leave of absence.

Ms Kerry Bedford tendered an apology for non-attendance [business commitment] and requested leave of absence.

#### **Resolved:**

(Moved: Vince Berkhout/Bill Tsakalos)

That the apologies by Ms Elizabeth Crouch and Ms Kerry Bedford for non-attendance be accepted and leave of absence be granted.

**CARRIED UNANIMOUSLY**

### **DECLARATIONS OF INTEREST**

The Chairperson adverted to the necessity for the Ku-ring-gai Planning Panel members and staff to declare a Pecuniary Interest/Conflict of Interest in any item on the Business Paper.

No interest was declared.

**CONFIRMATION OF MINUTES**PP8 **Minutes of Ku-ring-gai Planning Panel**

File: S06347

Meeting held 25 February 2009  
Minutes numbered PP1 to PP6

**Resolved:**

(Moved: Vince Berkhout/Bill Tsakalos)

That Minutes numbered PP1 to PP6 circulated to Panel members were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

**CARRIED UNANIMOUSLY**

**GENERAL BUSINESS**PP9 **8 Killeaton Street, St Ives - Demolition of Existing Dwelling & Ancillary Structures & Torrens Title Subdivision of One Lot into Two**

File: DA1316/08

Ward: St Ives  
Applicant: Qing Yao Song  
Owners: Mr Qing Yao Song & Mrs M Feng

In accordance with Planning Circular PS 08-014 (Attachment E), which requires "all development applications where there has been a variation greater than 10% in standards under SEPP 1 to be determined by full Council" (or by Ku-ring-gai Planning Panel in

**Resolved:**

(Moved: Vince Berkhout/Bill Tsakalos)

**PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

THAT the Ku-ring-gai Planning Panel, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to Clause 58B(3)(c) of the Ku-ring-gai Planning Scheme Ordinance is well

founded. The Ku-ring-gai Planning Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.

**AND**

THAT the Ku-ring-gai Planning Panel, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded, grant development consent to DA1316/08 for demolition & Torrens Title subdivision of one lot into two, on land at 8 Killeaton Street, St Ives, for a period of two (2) years from the date of the Notice of Determination subject to the following conditions:

**CONDITIONS THAT IDENTIFY APPROVED PLANS:**

**1. Approved architectural plans and documentation**

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

<b><i>Plan no.</i></b>	<b><i>Drawn by</i></b>	<b><i>Dated</i></b>
3912 SUB1 A	Mepstead & Associates Surveyors	5-12-2008

**Reason:** To ensure that the development is in accordance with the determination.

**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:**

**2. Endangered Ecological Community protection fencing**

To conserve the Sydney Turpentine Ironbark Forest Endangered Ecological Community at the front of Lot 211, no work shall commence until the area within 9 metres of the front boundary of Lot 211 - east of the existing driveway is fenced off to prevent any activities, storage or the disposal of materials within the fenced Endangered Ecological Community. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

**Reason:** To protect an existing endangered ecological community during the demolition phase.

**3. Endangered Ecological Community protection fencing excluding structure**

To conserve the Sydney Turpentine Ironbark Forest Endangered Ecological Community at the rear of Lot 212, no work shall commence until the area within 15 metres of the rear boundary of Lot 212 excluding the dwelling to be demolished and that area 1 metre outside its external walls shall be fenced off to prevent any activities, storage or the disposal of materials within the fenced Endangered Ecological Community. The fence/s shall be maintained intact until the completion of all demolition work on site.

**Reason:** To protect an existing endangered ecological community during the demolition phase.

#### **4. Notice of commencement**

At least 48 hours prior to the commencement of any development (including demolition, excavation, shoring or underpinning works), a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

**Reason:** Statutory requirement.

#### **5. Notification of builder's details**

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

**Reason:** Statutory requirement.

#### **6. Sediment controls**

Prior to any work commencing on site, sediment and erosion control measures shall be installed along the contour immediately downslope of any future disturbed areas.

The form of the sediment controls to be installed on the site shall be determined by reference to the 'NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction'. The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

**Reason:** To preserve and enhance the natural environment.

#### **7. Erosion and drainage management**

Earthworks and/or demolition of any existing buildings shall not commence until an erosion and sediment control plan is submitted to and approved by the Principal Certifying Authority. The plan shall comply with the guidelines set out in the NSW Department of Housing manual "Managing Urban Stormwater: Soils and Construction" certificate. Erosion and sediment control works shall be implemented in accordance with the erosion and sediment control plan.

**Reason:** To preserve and enhance the natural environment.

#### **8. Tree protection fencing**

To preserve the following tree/s, no work shall commence until the area beneath their canopy is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced

area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

**Schedule**

**No/Tree/location**

**Radius in metres**

155/*Pittosporum undulatum* (Sweet Pittosporum)/Adjacent to the south-eastern corner of No. 2 Killeaton Street. 5 metres

**Reason:** To protect existing trees during the demolition phase.

**9. Tree protective fencing type galvanised mesh**

The tree protection fencing shall be constructed of galvanised pipe at 2.4 metres spacings and connected by securely attached chain mesh fencing to a minimum of 1.8 metres in height prior to work commencing.

**Reason:** To protect existing trees during construction phase.

**10. Endangered Ecological Community and tree protection signage**

Prior to works commencing, endangered ecological community and tree protection signage is to be attached to each endangered ecological community and tree protection zone, displayed in a prominent position and the sign repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:

- endangered ecological community/tree protection zone
- this fence has been installed to prevent damage to the endangered ecological community/tree and its growing environment both above and below ground and access is restricted
- any encroachment not previously approved within the endangered ecological community/tree protection zone shall be the subject of an ecologist's report
- the ecologist's report shall provide proof that no other alternative is available
- the ecologist's report shall be submitted to the Principal Certifying Authority for further consultation with Council
- the name, address, and telephone number of the demolition contractor.

**Reason:** To protect existing endangered ecological community and trees during the demolition phase.

**11. Endangered Ecological Community and tree fencing inspection**

Upon installation of the required protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that endangered ecological community and tree protection measures comply with all relevant conditions.

**Reason:** To protect an existing endangered ecological community and trees during the demolition phase.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:****12. Long service levy**

In accordance with Section 109F(i) of the Environmental Planning and Assessment Act a Construction Certificate shall not be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

**Reason:** Statutory requirement.

**13. Certification of existing interallotment drainage line**

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, certification from a suitably qualified and experienced civil/hydraulic engineer that:

- any existing pipes within the interallotment drainage easement system to be utilised that are not to be reconstructed, are in satisfactory operating condition
- the existing pipes to be utilised have the hydraulic capacity to carry uncontrolled post-developed flows from the subject property as far as the approved point of discharge to the public drainage system

Where it is found that existing interallotment pipes do not exist, are in disrepair, or will have insufficient hydraulic capacity to carry additional uncontrolled flows from the approved development, the applicant shall submit full design documentation for an upgraded interallotment drainage system from the subject property to the approved point of discharge to the public drainage system. This design documentation shall be approved by the Principal Certifying Authority, prior to issue of the Construction Certificate.

Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with Ku-ring-gai Water Management Development Control Plan No. 47 and AS3500.3 Plumbing and Drainage Code. New pipes within the downstream easement drainage system must be sized to have adequate capacity to carry uncontrolled runoff from the contributing catchment and an associated overland flow path is to be provided in the event of blockage of the line. The following engineering 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 7 metres of the

- proposed interallotment drainage system
- means to preserve the root systems of trees within 7 metres of the drainage system

**Reason:** To ensure that satisfactory design of the interallotment drainage in accordance with relevant codes and Australian Standards.

#### **14. Driveway crossing levels**

Prior to issue of the Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Kuring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

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

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

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

#### **15. Drainage of paved areas**

All new exposed impervious areas graded towards adjacent property and/or future habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details of such measures shall be shown on the Construction Certificate drawings, to the satisfaction of the Certifying Authority.

**Reason:** To control surface run off and protect the environment.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):**

**16. Infrastructure restorations fee**

To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.
- e) In this condition:

“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

**Reason:** To maintain public infrastructure.



**17. Driveway and drainage details**

Prior to issue of the construction certificate, the applicant must submit, for approval by the Principal Certifying Authority, details in relation to the following:

- Design details of the new driveway within the access handle servicing the proposed Lot 211 and Lot 212
- The drainage from proposed Lot 211 over Lot 212
- All relevant utility services

The required plans and specifications are to be designed generally in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004, Building Code of Australia and relevant Australian Standards. The drawings must detail existing utility services and trees affected by the works. The design engineering details shall be prepared by a suitable qualified civil engineer,

**Reason:** To ensure that the services are installed and are suitable for construction purposes.

**18. Section 94 contribution – residential development**

A contribution pursuant to section 94 of the Environmental Planning and Assessment Act as specified in Ku-ring-gai Section 94 Contributions Plan 2004-2009 (Amendment 2) for the services detailed in column A and for the amount detailed in Column B is required.

<b>Column A</b>	<b>Column B</b>
Community facilities	\$1,668.25
Park acquisition and embellishment works	\$27,346.52
Park embellishment works	\$4,034.49
Sports grounds works	\$5,708.39
Aquatic / leisure centres	\$337.94
Traffic and transport	\$476.77
Section 94 Plan administration	\$427.40
<b>Total contribution is:</b>	<b>\$39,999.76</b>

The contribution shall be paid to Council prior to the commencement of any development (including demolition) or prior to the issue of a Construction Certificate (whichever comes first). The contributions may vary at the time of payment in accordance with the Contributions Plan to reflect changes in the consumer price index and the housing price index. Prior to payment, you are advised to verify the contribution amount required with Council. Copies of Council's Contributions Plans can viewed at the Council Chambers at 818 Pacific Highway, Gordon or on Council's website at [www.kmc.nsw.gov.au](http://www.kmc.nsw.gov.au)

**Reason:** To ensure 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 the development.

**CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:****19. Prescribed conditions**

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- The work must be carried out in accordance with the requirements of the Building Code of Australia
- In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence.

**Reason:** Statutory requirement.

**20. Approved plans to be on site**

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

**Reason:** To ensure that the development is in accordance with the determination.

**21. Statement of compliance with Australian Standards**

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of any works.

**Reason:** To ensure compliance with the Australian Standards.

**22. Demolition, excavation and construction work hours**

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 7.30am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon and 1.00pm.

Where it is necessary for works to occur outside of these hours (i.e. concrete pours and standing of plant), approval for such will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

**Note:** Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued.

**Reason:** To ensure reasonable standards of amenity for occupants of neighbouring properties.

### 23. Site notice

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

**Reason:** To ensure public safety and public information.

### 24. Dust control

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs

- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

**Reason:** To protect the environment and amenity of surrounding properties.

#### **25. Use of road or footpath**

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from 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.

**Reason:** To ensure safety and amenity of the area.

#### **26. Toilet facilities**

During excavation, demolition and construction phases, toilet facilities are to be provided, on the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

**Reason:** Statutory requirement.

#### **27. Protection of public places**

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

If necessary, a hoarding 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 hoarding, fence or awning is to be removed when the work has been completed.

**Reason:** To protect public places.

#### **28. Recycling of building material (general)**

During demolition and construction, the Principal Certifying Authority shall be satisfied that building materials suitable for recycling have been forwarded to

an appropriate registered business dealing in recycling of materials. Materials to be recycled must be kept in good order.

**Reason:** To facilitate recycling of materials.

### 29. Road reserve safety

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

**Reason:** To ensure safe public footways and roadways during construction.

### 30. Erosion control

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifying Authority and Council officers.

**Reason:** To protect the environment from erosion and sedimentation.

### 31. Sydney Water Section 73 Compliance Certificate

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 Co-ordinator. The applicant is to refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-develop" 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 Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

**Reason:** Statutory requirement.

### 32. Cutting of tree roots

No tree roots of 30mm 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 works during the construction period.

**Schedule**

**No/Tree/location**

171/*Syncarpia glomulifera* (Turpentine)/3 metres from the rear of the existing dwelling.

**Radius from trunk**

6 metres

**Reason:** To protect existing trees.

**33. Hand excavation**

All excavation within the specified radius of the trunk(s) of the following tree(s) shall be hand dug:

**Schedule**

**No/Tree/location**

171/*Syncarpia glomulifera* (Turpentine)/3 metres from the rear of the existing dwelling.

**Radius from trunk**

6 metres

**Reason:** To protect existing trees.

**34. No storage of materials beneath trees**

No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

**Reason:** To protect existing trees.

**35. Removal of refuse**

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.

**Reason:** To protect the environment.

**36. Protection of an Endangered Ecological Community – Section 88B instrument**

Prior to the issue of the issue of the Subdivision Certificate, the Principal Certifying Authority is to be provided with evidence of the creation of a Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the areas of land for 9 metres from the front (Killeaton Street) boundary and east of the existing driveway of Lot 211, and for 15 metres from the southern (rear) boundary of Lot 212. The terms shall state that the native vegetation within the areas shall be preserved ensuring the retention in perpetuity, rehabilitation and continued weed management of the Sydney Turpentine Ironbark Forest Endangered Ecological Community (STIFECC):

- Any new plantings within the restricted areas shall be from locally occurring species of the Sydney Turpentine Ironbark Forest Endangered

- Ecological Community and sourced from local provenance stock.
- The area is to be permanently maintained free of all exotic species and native species not indicative of STIFECC, noxious weeds, environmental weeds and nuisance plants as outlined in Ku-ring-gai Council's Weed Management Policy dated December 2004.
  - All weeds are to be removed using bush regeneration techniques to encourage the natural regeneration of native plants.
  - Excavations, soil level changes or construction works are prohibited within the restricted areas with the exception of stormwater drainage installation by thrust boring method and fence/s as approved by Council.
  - No imported soil, topsoil, leaf litter or mulch is permitted as they may include nutrients and seeds.
  - No fertiliser, insecticide or sprayed herbicides are to be used.

**Reason:** To enhance native vegetation and promote biodiversity.

### **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE:**

#### **37. Protection of an Endangered Ecological Community – Section 88B instrument**

Prior to the issue of the issue of the Subdivision Certificate, the Principal Certifying Authority is to be provided with evidence of the creation of a Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the areas of land for 9 metres from the front (Killeaton Street) boundary and east of the existing driveway of Lot 211, and for 15 metres from the southern (rear) boundary of Lot 212. The terms shall state that the native vegetation within the areas shall be preserved ensuring the retention in perpetuity, rehabilitation and continued weed management of the Sydney Turpentine Ironbark Forest Endangered Ecological Community (STIFECC):

- Any new plantings within the restricted areas shall be from locally occurring species of the Sydney Turpentine Ironbark Forest Endangered Ecological Community and sourced from local provenance stock.
- The area is to be permanently maintained free of all exotic species and native species not indicative of STIFECC, noxious weeds, environmental weeds and nuisance plants as outlined in Ku-ring-gai Council's Weed Management Policy dated December 2004.
- All weeds are to be removed using bush regeneration techniques to encourage the natural regeneration of native plants.
- Excavations, soil level changes or construction works are prohibited within the restricted areas with the exception of stormwater drainage installation by thrust boring method and fence/s as approved by Council.
- No imported soil, topsoil, leaf litter or mulch is permitted as they may include nutrients and seeds.
- No fertiliser, insecticide or sprayed herbicides are to be used.

**Reason:** To enhance native vegetation and promote biodiversity.

### 38. Amendment to stormwater drainage easement

Prior to the issue of the issue of the Subdivision Certificate, the Principal Certifying Authority is to be provided with evidence that the section of the 1 metre wide easement to drain water (C) that crosses to the western boundary of proposed Lot 212 between Pit 4 and Pit 5 is repositioned 4 metres to the south outside the canopy of Tree 155: *Pittosporum undulatum* (Sweet Pittosporum) located within No. 2 Killeaton Street; to protect its canopy from damage and to avoid excavation within its root zone. Pit 5 is to be located outside the 15 metre wide Restriction on the Use of Land within Lot 212.

**Reason:** To protect an existing endangered ecological community and tree/s.

### CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE:

#### 39. Easement drainage line construction

Prior to issue of the Subdivision Certificate, the Principal Certifying Authority shall be satisfied that the required interallotment drainage system has been installed and surveyed under the supervision of a designing engineer or equivalent professional.

**Note:** At the completion of the interallotment works, the following must be submitted to the Principal Certifying Authority for approval:

- details from the supervising engineer that that the as-constructed works comply with the approved interallotment design documentation
- a full works as executed drawing of the as built interallotment drainage line (dimensions, grades, materials, invert levels) prepared by a registered surveyor, and details from the surveyor that all drainage structures are wholly contained within existing drainage easement(s)

**Reason:** To protect the environment.

#### 40. Sydney Water Section 73 Compliance Certificate

Prior to release of the linen plan/issue of the subdivision certificate, the Section 73 Sydney Water compliance certificate **which refers to the subdivision application** must be obtained and submitted to the Council.

**Reason:** Statutory requirement.

#### 41. Reinstatement of crossings

Prior to issue of the Subdivision Certificate, the principal Certifying Authority is to be satisfied that following works have been 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. Full reinstatement of these sections to footway, and/or turfed verge and/or kerb and gutter to the satisfaction of Council
- reinstatement works match surrounding adjacent infrastructure with respect to marrying of levels and materials
- any sections of damaged grass verge are to be 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) has been repaired to the satisfaction of Council and at no cost to Council

**Reason:** To protect public infrastructure and the streetscape.

#### **42. Infrastructure repair – subdivision works**

Prior to issue of the Subdivision Certificate, any infrastructure within the road reserve along the frontage of the subject site or within close proximity, which has been damaged as a result of subdivision works, must be fully repaired to the satisfaction of Council's Development Engineer and at no cost to Council.

**Reason:** To protect public infrastructure

#### **43. Provision of services**

Prior to issue of the Subdivision Certificate, separate underground electricity, gas and phone or appropriate conduits for the same, must be provided to each allotment 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.

**Reason:** Access to public utilities.

#### **44. Submission of 88b instrument**

Prior to the 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 to Council. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the burdens.

**Reason:** To create all required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required.

#### **45. Submission of plans of subdivision (Torrens title)**

For endorsement of the subdivision certificate, the applicant shall submit an

original plan of subdivision plus 6 copies, suitable for endorsement by Council. The following details must be submitted with the plan of subdivision and its copies:

- a) the endorsement fee current at the time of lodgement
- b) the 88B instrument plus 6 copies
- c) a copy of the Occupation Certificate issued for **DA 1316/08**
- d) all surveyor's and/or consulting engineers' certification(s) required under this subdivision consent
- e) The Section 73 (Sydney Water) Compliance Certificate for the subdivision.
- f) Proof of payment of S94 contribution

Council 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 and copies of subdivision must not be folded. Council will not accept bonds in lieu of completing subdivision works.**

**Reason:** Statutory requirement.

#### **46. General easement/R.O.W. provision and certification**

Prior to issue of the Subdivision Certificate, a registered surveyor is to provide details to Council that all physical structures are fully contained within the proposed allotments or will be fully covered by the proposed burdens upon registration of the final plan of subdivision. Alternatively, where the surveyor is of the opinion that creation of burdens and benefits is not required, then proof to this effect must be submitted to the Principal Certifying Authority.

**Reason:** To ensure that all physical structures are fully contained within the proposed allotments or will be fully covered by the proposed burdens upon registration of the final plan of subdivision.

### **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF EITHER AN OCCUPATION OR SUBDIVISION CERTIFICATE (WHICH COMES FIRST):**

#### **47. Completion of driveway and drainage works**

Prior to issue of the subdivision certificate, the following works must be fully completed:

- Construction of the new driveway within the access handle servicing the proposed Lot 211 and Lot 212
- The drainage from proposed Lot 211 over Lot 212 is to be constructed.

The completed works are to be approved by Council's Development Engineer prior to release of the linen plan/issue of the subdivision.

**Reason:** To ensure that the services are available to the allotments of land.

**CONDITIONS TO BE SATISFIED AT ALL TIMES:****48. Rural Fire Service****(a) Asset Protection Zone**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

At the commencement of building works and in perpetuity the entire property shall be managed as an 'Inner Protection Area' as outlined within Planning for Bushfire Protection 2006 and the Service's document 'Standards for asset protection zones'.

**(b) Water and utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bushfire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

Water, electricity and gas are to comply with section 4.1.3 of planning for Bush Fire Protection 2006.

**(c) Access**

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

Access to a development comprising more than three dwellings shall comply with public road access in accordance with section 4.1.3 (1) of Planning for Bushfire Protection 2006.

**(d) Landscaping**

Landscaping to the site is to comply with the principles of Appendix 5 of planning for Bush Fire Protection 2006.

**CARRIED UNANIMOUSLY**

*The Meeting closed at 5.04pm*

The Minutes of the Ku-ring-gai Planning Panel held on 8 April 2009 (Pages 1 - 19) were confirmed as a full and accurate record of proceedings on 13 May 2009.

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Chairperson