

**MINUTES OF KU-RING-GAI PLANNING PANEL  
HELD ON WEDNESDAY, 13 MAY 2009**

Present: Elizabeth Crouch (Chairperson)  
Bill Tsakalos

Staff Present: Acting General Manager (Michael Miocic)  
Acting Director Development & Regulation (Corrie Swanepoel)  
Director Corporate (John Clark)

*The Meeting commenced at 5.01pm*

PP10 **APOLOGIES**

File: S06347

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

**NOTE:** The General Manager, John McKee, tendered apologies for non-attendance.

**Resolved:**

(Moved: Chairperson, E Crouch/B Tsakalos)

That the apology by 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.

## DOCUMENTS CIRCULATED TO THE PANEL

The Chairperson adverted to the documents circulated in the Ku-ring-gai Planning Panel Members' papers and advised that the following matters would be dealt with at the appropriate time during the meeting:

**Memorandum: Refer GB.1 - 1 Woodlands Avenue, Pymble - Construction of New Two Storey Dwelling House** - Memorandum & Attachments by Acting Director Development & Regulation (Corrie Swanepoel) dated 7 May 2009 regarding to the Landscape Plan & Summary of Materials attachments to the reports being inadvertently omitted from the Business Paper.

## CONFIRMATION OF MINUTES

### PP11 **Minutes of Ku-ring-gai Planning Panel**

File: S06347

Meeting held 8 April 2009  
Minutes numbered PP7 to PP9

#### **Resolved:**

(Moved: B Tsakalos/Chairperson, E Crouch)

That Minutes numbered PP7 to PP9 circulated to Panel members were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

**CARRIED UNANIMOUSLY**

## GENERAL BUSINESS

### PP12 **1 Woodlands Avenue, Pymble - Construction of New Two Storey Dwelling House**

File: DA1257/08

Ward: Comenarra  
Applicant: Eden Brae Homes  
Owners: Mr Robert William Beck & Mrs Megan Louise Beck

To determine Development Application No.1257/08 for construction of a new two-storey dwelling house.

**Resolved:**

(Moved: B Tsakalos/Chairperson, E Crouch)

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

THAT the Ku-ring-gai Planning Panel, as the consent authority, grant development consent to DA 1257/08 for construction of a new two storey dwelling on land at 1 Woodlands Avenue, Pymble, 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 (new development)**

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

<i>Plan no.</i>	<i>Rev</i>	<i>Description</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received</i>
01	G	Driveway Profile	Eden Brae Homes	9-3-09	19-3-09
02	G	Site Plan	Eden Brae Homes	9-3-09	19-3-09
03	G	Ground Floor Plan	Eden Brae Homes	9-3-09	19-3-09
04	G	First Floor Plan	Eden Brae Homes	9-3-09	19-3-09
05	G	North, West & South Elevations	Eden Brae Homes	9-3-09	19-3-09
06	G	East Elevation & Section	Eden Brae Homes	9-3-09	19-3-09
L001	D	Landscape Plan	Peta Gilliland Landscape Design	1-5-09	1-5-09
E1677-12018	3	Concept Stormwater Design	Ibrahim Stormwater Consultants	25-3-09	25-3-09

<i>Document(s)</i>	<i>Prepared by</i>	<i>Dated</i>	<i>Received</i>
Schedule of Materials and Colours	Eden Brae Homes	N/A	19-3-09
Tree Assessment & Impact Report	Landscape Matrix Pty Ltd	9-1-09	13-1-09

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

**2. Inconsistency between documents**

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

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

**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:****3. 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.

#### **4. 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.

#### **5. Dilapidation photos (public infrastructure)**

Prior to the commencement of any works on site the applicant must submit to Ku-ring-gai Council and the Principal Certifying Authority a photographic record on the visible condition of the existing public infrastructure **over the full site frontage** (in colour - preferably saved to cd-rom in 'jpg' format). The photos must include detail of:

- The existing kerb and gutter
- The existing full road surface between kerbs
- The existing verge area
- The existing driveway and layback where to be retained
- Any existing drainage infrastructure including pits, lintels, grates.

Particular attention must be paid to accurately recording any pre-developed *damaged* areas on the aforementioned infrastructure so that Council is fully informed when assessing damage to public infrastructure caused as a result of the development (which is not to be repaired by the Applicant as part of the development). 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 and demonstrated under the requirements of this condition prior to the commencement of any works.

**Reason:** To protect public infrastructure.

#### **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. 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

Tree/location	Radius from trunk
<i>Magnolia grandiflora</i> (Bull-bay Magnolia) Tree 10	3m
<i>Macadamia tetraphylla</i> (Macadamia) Tree 11	3m
<i>Pistacia chinensis</i> (Pistacia) Tree 18	4m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 21	3m
<i>Brachychiton acerifolius</i> (Flame Tree) west of Tree 21	3m
<i>Camellia sasanqua</i> ( <i>Chinese Camellia</i> ) directly west of Tree 21	3m
<i>Cupressus glabra</i> (Arizona Cypress) western boundary, adjoining property	3m

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 height of 1.8 metres in height prior to work commencing.

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

## 8. Tree protection fencing excluding structure

To preserve the following tree/s, no work shall commence until the area beneath their canopy excluding that area of the proposed driveway/dwelling 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

Tree/location	Radius from trunk
<i>Pistacia chinensis</i> (Pistacia) Tree 5	4m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 4	3m
<i>Quercus robur</i> (English Oak) Tree 8	4m
<i>Quercus robur</i> (English Oak) Tree 9	6m
<i>Macadamia tetraphylla</i> (Macadamia) Tree 11	3m
<i>Phoenix canariensis</i> (Canary Island Palm) Tree 17	3m

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 height of 1.8 metres in height prior to work commencing.

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

## 9. Tree protection signage

Prior to works commencing, tree protection signage is to be attached to each

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:

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

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

#### 10. Tree protection mulching

Prior to works commencing and throughout construction, the area of the tree protection zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood.

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

#### 11. Tree protection – avoiding soil compaction

To preserve the following tree/s and avoid soil compaction, no work shall commence until temporary measures to avoid soil compaction (eg rumble boards) beneath the canopy of the following tree/s is/are installed:

**Schedule**

**Tree/Location**

*Pistacia chinensis* (Pistacia) Tree 5

*Quercus robur* (English Oak) Tree 8

*Macadamia tetraphylla* (Macadamia) Tree 11

*Phoenix canariensis* (Canary Island Palm) Tree 17

*Erythrina crista-galli* (Cockscomb Coral Tree) Tree 12

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

#### 12. Tree fencing inspection

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

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

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:**

**13. Amendments to approved site management plan**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved site management plan, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
A13195 Issue G	Eden Brae Homes	9/03/09

The above site management plan shall be amended in the following ways:

1. To preserve the health and condition of the following trees, the proposed garbage disposal area in front setback shall not encroach within the canopy spread of existing trees.

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the site management plan has been amended as required by this condition.

**Note:** An amended site management plan shall be submitted to the Certifying Authority.

**Reason:** To ensure the protection of trees.

**14. Amendments to approved landscape plan**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved landscape plan, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
L001/C	Peta Gilliland Landscape Design	18/03/09

The above landscape plan(s) shall be amended in the following ways:

1. To preserve the health and condition of the following trees, the proposed batter is to be replaced with a retaining wall located along the edge of the driveway. The height of the retaining wall shall follow the natural ground level.
2. To preserve the horticultural significance of the site, replacement planting to include specimens of those trees removed as part of the development. Proposed planting of *Jacaranda mimosifolia* (Jacaranda) to replace Tree 27 to be substituted with one (1) *Diploglottis cunninghamii* (Native Tamarind), and one (1) *Brachychiton discolor* (Queensland

Lacebark) to be planted in the approximate location of Tree 16.

3. Proposed strong linear hedge planting of *Photinia glabra* (Hawthorn) to western boundary and *Viburnum sp.* (Viburnum) to eastern boundary to be broken up and replaced with assorted shrub plantings to restore the stylistic character of the garden and preserve heritage vistas. Screen plantings to be in small groups or as single specimens to achieve informal shrubbery boundary planting. Recommended shrub species include *Azalea*, *Camellia*, *Ceratopetalum gummiferum*, *Cordyline*, *Cornus*, *Rhododendron*, *Rhaphiolepis indica*, *Rhondoletia*, *Rosmarinus*, *Strelitzia*, *Viburnum*. Tree species should include *Acer palmatum* (Japanese Maple). Larger shrubs/small trees that can attain 6-8m are to be planted in the wider planting beds along the eastern building setbacks. *Brachychiton acerifolius* (Flame Tree), *Franklinia axillaris* (Gordonia), *Malus sp.* *Magnolia sp.* *Pyrus sp.*
4. To preserve landscape character and provide sufficient area for generous screen planting, the path along eastern boundary shall be relocated to follow existing contours as shown on the Landscape Plan prepared by Peta Gilliland, Dwg no. L01, Revision D dated 1/5/09. Side setback to retain existing grades.
5. Drainage pits, tanks and grates to be shown.
6. Spot levels of existing trees to be retained to be shown.
7. Top of wall heights to be shown. Retaining walls to eastern boundary to step down with natural fall of topography.
8. To preserve health and condition of following existing trees, ivy shall be removed from trunk and branches.

### **Schedule**

#### **Tree/Location**

*Quercus robur* (English Oak) Tree 9

*Macadamia tetraphylla* (Macadamia) Tree 11

9. Tree numbers to be shown in accordance with arborist report except as follows:
  - Tree identification to be amended to show the *Camellia sasanqua* to the north of Tree 29 as the *Cupressus glabra* (Arizona Cypress) and the tree to the south-east of it as the *Brachychiton acerifolius* (Flame Tree). Tree 29 is to be shown as a *Jacaranda mimosifolia* (Jacaranda) and Tree 30 does not exist. The *Acer negundo* to the west is a Prunus and the Prunus to north of Tree 28 is a *Camellia sasanqua*. Tree 4 to be shown as *Liquidamber* instead of *Pistacia*.

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the landscape plan has been amended as required by this condition.



**Note:** An amended landscape plan, prepared by a landscape architect or qualified landscape designer shall be submitted to the Certifying Authority.

**Reason:** To ensure adequate landscaping of the site.

## 15. Amendments to engineering plans

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the engineering plan(s), listed below have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
0012018	Eden Brae Homes	9/3/2009

The above engineering plan(s) shall be amended as follows:

- The clear internal width of the proposed double garage increased to a minimum 5.4m (currently 5.0m - between internal piers).
- The clear internal length of the proposed double garage increased to a minimum 5.4m (currently 5.3m - ducted vacuum system).
- The clear height of the proposed double garage door increased to a minimum 2.2m (currently 2.1m).

The above amendments are required to ensure compliance with Australian Standard 2890.1 - "Off-street car parking".

**Note:** An amended engineering plan, prepared by a qualified engineer shall be submitted to the Certifying Authority.

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

## 16. 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.

## 17. Builder's indemnity insurance

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the

certificate of insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the 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. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at 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).

**Reason:** Statutory requirement.

#### **18. External finishes, colours and materials**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the external finishes of the building are consistent with the schedule of colours, finishes and materials identified in Condition No. 1. Nothing in this condition is to be construed as permitting the replacement of previously submitted materials with inferior or inadequate materials or finishes.

**Reason:** To protect the streetscape and the integrity of the approved development.

#### **19. Stormwater management plan (new single dwellings)**

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, scaled construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:

- exact location and reduced level of discharge point to the public drainage system
- layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, pits, grated drains, swales, kerbs, flushing facilities, subsoil drainage and all ancillary plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence)
- location(s), dimensions and specifications for the required rainwater storage and reuse tank systems and where proprietary products are to be used, manufacturer specifications and details must be provided
- specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with BASIX commitments

The above construction drawings and specifications are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the BCA. The

plans may be generally based upon the concept stormwater drainage plans by Ibrahim Stormwater Consultants (refer Job No. E1677-12018, Issue 3, dated 25/3/2009) submitted with the development application, which are to be advanced as necessary for construction certificate issue purposes.

**Reason:** To protect the environment.

## 20. Stormwater retention

Prior to the issue of a Construction Certificate, the Principal Certifying Authority is to be satisfied that a mandatory rainwater retention and re-use system, comprising storage tanks and ancillary plumbing is provided. The minimum total storage volume of the rainwater tank system, and the prescribed re-use of the water on site must satisfy all relevant BASIX commitments and the requirements specified in Chapter 6 of Ku-ring-gai Water Management Development Control Plan 47.

**Reason:** To protect the environment.

## 21. Excavation for services

Prior to the issue of the Construction Certificate, the Principal Certifying shall be satisfied that no proposed underground services (ie. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

**Note:** A plan detailing the routes of these services and trees protected under the Tree Preservation Order, shall be submitted to the Principal Certifying Authority.

**Reason:** To ensure the protection of trees.

## 22. 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 Ku-ring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

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.

### **23. Drainage of paved areas**

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

### **24. Vehicular access and garaging**

Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking". Details are to be provided to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** To ensure that parking spaces are in accordance with the approved development.

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

### **24A. Screen planting to be installed**

To ensure that privacy is maintained between the properties in the long term, a fixed privacy screen shall be installed on the eastern edge of the alfresco dining area having a minimum height of 1.6 metres above finished floor level. The principle certifying authority shall ensure that the plans have been amended to incorporate a privacy screen prior to the release of the Construction Certificate. The privacy screen shall be installed prior to occupation of the dwelling and maintained at all times.

**Reason:** To preserve privacy of adjoining properties.

**24B. Screen planting to be installed**

To maintain suitable levels of privacy and amenity for the adjoining property to the east (No. 1A Woodlands Avenue), screen planting shall be established along the eastern side boundary between the rear deck and the eastern boundary. The required screen planting shall consist of a minimum of 10 screening plants of a minimum 25Litre pot size and shall be of species consistent with the Sydney Blue Gum High forest plant community and in accordance with the Appendix D to Appendix F of Council's DCP No. 38 (Residential Design Manual).

Details of the required screen planting shall be shown on the amended landscape plans prior to the release of the Construction Certificate. The required screen planting shall be maintained at all times.

**Reason:** To preserve privacy of adjoining properties.

**25. 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.

## 26. Section 94 contribution – residential development (new construction)

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 (district)	\$1,461.41
park acquisition and embellishment works	\$20,522.95
park embellishment works	\$3,534.25
sportsgrounds works	\$5,000.61
aquatic / leisure centres	\$296.03
traffic and transport	\$417.66
section 94 Plan administration	\$374.41
<b>Total contribution is:</b>	<b>\$31,607.32</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 Hwy 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, traffic and transport, 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:**

### 27. 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.

## **28. 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.

## **28A. Retention and protection of fernery/stone grotto**

No consent is granted or inferred for the demolition or removal of the any part of the existing stone grotto located adjacent to the eastern site boundary with the adjoining Lot 1. The fernery/stone grotto shall be protected at all times during construction. The storage of materials is not permitted within 2.0metres of any part of the structure.

**Reason:** To preserve and maintain existing features of the site which may have heritage significance.

## **29. 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.

### 30. Construction noise

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

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

### 31. 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.

### 32. 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.

### **33. 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.

### **34. 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.

### **35. 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 (2002) "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.

### **36. Services**

Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicants' full responsibility to make contact with the relevant utility

authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

**Reason:** Provision of utility services.

### **37. Temporary disposal of stormwater runoff**

During construction, stormwater runoff must be disposed of in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.

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

### **38. 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.

### **39. Drainage to street**

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system and generally in accordance with the submitted concept stormwater drainage plans by Ibrahim Stormwater Consultants (refer Job No. E1677-12018, Issue 3, dated 25/3/2009). New drainage line connections to the street drainage system shall conform and comply with the requirements of Sections 5.3 and 5.4 of Ku-ring-gai Water Management Development Control Plan No. 47.

**Reason:** To protect the environment.

### **40. Grated drain at garage**

A 200mm wide grated channel/trench drain, with a heavy-duty removable galvanised grate is to be provided in front of the garage door to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

**Reason:** Stormwater control.

**41. 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 Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) 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.

**42. Arborist's report**

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

**Schedule****Tree/location**

*Liquidambar styraciflua* (Liquidambar) Tree 4

*Pistacia chinensis* (Pistacia) Tree 5

*Quercus robur* (English Oak) Tree 8

*Quercus robur* (English Oak) Tree 9

*Macadamia tetraphylla* (Macadamia) Tree 11

*Erythrina crista-galli* (Cockscomb Coral Tree) Tree 12

*Phoenix canariensis* (Canary Island Palm) Tree 17

**Time of inspection**

Commencement of excavation for driveway, retaining wall and rainwater tanks

Commencement of excavation for driveway and retaining wall

Commencement of excavation for driveway, dwelling, retaining wall, pit to east of driveway and stormwater line along kerb

Commencement of excavation for driveway, dwelling, , retaining wall pit to east of driveway and stormwater line along kerb

Commencement of excavation for dwelling and stormwater line along kerb

Commencement of excavation for dwelling

Commencement of excavation for dwelling

**Reason:** To ensure protection of existing trees.

**43. Treatment of tree roots**

If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced arborist/horticulturist with a minimum qualification of horticulture certificate or tree surgery certificate

**Reason:** To protect existing trees.

**44. Approved tree works**

Approval is given for the following works to be undertaken to trees on the site. An arborist report prepared by Landscape Matrix, dated 9/01/09, has been submitted. Tree numbers refer to this report.

**Schedule****Tree location**

*Pistacia chinensis* (Pistacia) Tree 5

*Quercus robur* (English Oak) Tree 8

*Erythrina crista-galli* (Cockscomb Coral Tree) Tree 12

*Pistacia chinensis* (Pistacia) Tree 2

*Quercus robur* (English Oak) Tree 8

*Quercus robur* (English Oak) Tree 9

*Macadamia tetraphylla* (Macadamia) Tree 11

*Erythrina crista-galli* (Cockscomb Coral Tree) Tree 12

*Franklinia axillaris* (Gordonia) Tree 20

*Celtis sinensis* (Chinese Hackberry) Tree 27

**Approved tree works**

Minor pruning of lower branches on eastern side of tree to provide driveway clearance

Minor pruning of lower branches on eastern and southern side of tree to provide driveway and dwelling clearance

Pruning of lower branches on eastern side of tree to provide dwelling clearance

Removal

Removal

Removal

Removal

Removal

Removal

Removal

Removal or pruning of any other tree on the site is not approved.

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

**45. Excavation near trees**

No mechanical excavation 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:

**Schedule****Tree/location**

*Pistacia chinensis* (Pistacia) Tree 5

*Liquidambar styraciflua* (Liquidambar) Tree 4

*Quercus robur* (English Oak) Tree 8

*Quercus robur* (English Oak) Tree 9

*Magnolia grandiflora* (Bull-bay Magnolia) Tree 10

*Macadamia tetraphylla* (Macadamia) Tree 11

*Erythrina crista-galli* (Cockscomb Coral Tree) Tree 12

*Phoenix canariensis* (Canary Island Palm) Tree 17

**Radius from trunk**

4m

3m

4m

6m

3m

3m

4m

4m

**Reason:** To protect existing trees.

**46. Hand excavation**

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

**Schedule****Tree/location**

<i>Pistacia chinensis</i> (Pistacia) Tree 5	4m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 4	3m
<i>Quercus robur</i> (English Oak) Tree 8	4m
<i>Quercus robur</i> (English Oak) Tree 9	6m
<i>Magnolia grandiflora</i> (Bull-bay Magnolia) Tree 10	3m
<i>Macadamia tetraphylla</i> (Macadamia) Tree 11	3m
<i>Erythrina crista-galli</i> (Cockscomb Coral Tree) Tree 12	4m
<i>Phoenix canariensis</i> (Canary Island Palm) Tree 17	4m

**Radius from trunk**

**Reason:** To protect existing trees.

**47. 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.

**48. 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.

**49. Canopy replenishment trees to be planted**

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species

**Reason:** To maintain the treed character of the area.

**50. Removal of noxious plants & weeds**

All noxious and/or environmental weed species shall be removed from the property prior to completion of building works:

**Reason:** To protect the environment.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE:****51. Compliance with BASIX Certificate**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate have been complied with.

**Reason:** Statutory requirement.

## **52. Completion of landscape works**

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent.

**Reason:** To ensure that the landscape works are consistent with the development consent.

## **53. Retention and re-use positive covenant**

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Water Management Development Control Plan No. 47). 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.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

**Reason:** To protect the environment.

## **54. Provision of copy of OSR designs if Council is not the PCA**

Prior to issue of the Occupation Certificate, the following must be provided to Council's Development Engineer:

- a copy of the approved Construction Certificate stormwater retention design for the site
- A copy of any works-as-executed drawings required by this consent
- The Engineer's certification of the as-built system.

**Reason:** For Council to maintain its database of as-constructed on-site stormwater retention systems.

## **55. Certification of drainage works (new single dwellings)**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
- the minimum retention volume storage requirements of BASIX and Ku-ring-gai Water Management Development Control Plan No. 47, respectively, have been achieved in full
- retained water is connected and available for uses specified in the BASIX commitments.
- the drainage system has been installed by a licensed contractor in accordance with the Plumbing and Drainage Code AS3500.3 (2003) and the Building Code of Australia
- all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices

The rainwater certification sheet contained in Appendix 13 of Ku-ring-gai Water Management Development Control Plan No. 47, must be completed and attached to the certification.

**Note:** Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

**Reason:** To protect the environment.

#### **56. Sydney Water Section 73 Compliance Certificate**

Prior to issue of an Occupation Certificate the Section 73 Sydney water Compliance Certificate must be obtained and submitted to the Principal Certifying Authority

**Reason:** Statutory requirement.

#### **57. Reinstatement of redundant crossings and completion of infrastructure works**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that the following works in the road reserve have been completed:

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

All works must be completed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the

subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

**Reason:** To protect the streetscape.

**CARRIED UNANIMOUSLY**

*The Meeting closed at 5.05pm*

The Minutes of the Ku-ring-gai Planning Panel held on 13 May 2009 (Pages 1 - 24) were confirmed as a full and accurate record of proceedings on 27 May 2009.

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Chairperson