

Meeting Date: Tuesday 23 October 2012
Location: Council Chambers, Level 6, Civic Centre, 1 Devlin Street, Ryde
Time: 7.30pm

Councillors Present: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Maggio, Pendleton, Perram, Pickering, Salvestro-Martin, Simon and Yedelian OAM.

Councillor Pickering left the meeting at 11.35pm and was not present for consideration of Item 19.

Apologies: Nil.

Staff Present: General Manager, Group Manager – Community Life, Group Manager - Corporate Services, Group Manager – Environment & Planning, Group Manager - Public Works, Manager – Communications and Media, Service Unit Manager – Governance, Service Unit Manager – Urban Planning, Service Unit Manager – Human Resources, Service Unit Manager – Rangers and Parking Services and Acting Section Manager – Governance.

PRAYER

Pastor Josh Ling of the Macquarie Chapel Presbyterian Church was present and offered prayer prior to the commencement of the meeting.

DISCLOSURES OF INTEREST

Councillor Chung disclosed a less than significant non-pecuniary interest in Item 5 Part 5 – 59 Wharf Road, Gladesville for the reason that he is familiar with the objector.

Councillor Chung disclosed a less than significant non-pecuniary interest in Item 14 – Planning Proposal – 108 Herring Road, Marsfield for the reason that he has an industry association with the applicant business.

Councillor Maggio disclosed a less than significant non-pecuniary interest in Item 5 Part 5 – 59 Wharf Road, Gladesville for the reason that he is familiar with the resident objecting to the development.

Councillor Pickering disclosed a significant non-pecuniary interest in Item 19 – 41-45 Belmore Street Ryde Unauthorised Demolition for the reason that a contractor employed by his firm has also provided services to the party concerned.

Councillor Simon disclosed a less than significant non-pecuniary interest in Item 18 – Macquarie University – Draft Development Agreement for the reason that he has been involved in employment negotiations with Cochlear Limited in his capacity as a union representative.

TABLING OF PETITIONS

No Petitions were tabled.

PRESENTATION OF THE 2012 ANIMAL MANAGEMENT PLAN OF THE YEAR AWARD

Council's Service Unit Manager – Rangers and Parking Services, Mr Leon Marskell presented the Mayor, Councillor Petch with the 2012 Animal Management Plan of the Year Award. The Award was received from the Australian Institute of Australian Management (AIAM) and recognises the dedication of Council's staff.

PRESENTATION OF PRIDE OF WORKMANSHIP AWARD FROM GLADESVILLE ROTARY

The Mayor, Councillor Petch presented Council with a Pride of Workmanship Award from Gladesville Rotary. The Award was won by Council's Revenue Officer, Ms Tien Cheng.

PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA

The following persons addressed the Council:-

Name	Topic
Julie Worsley [representing Allengrove Against Inappropriate Development (A.A.I.D)]	Precis of Correspondence 1 – Allengrove Major Project Concept Plan approved by Land and Environment Court
Noel Plumb (representing Ryde Community Alliance)	Precis of Correspondence 1 – Allengrove Major Project Concept Plan approved by Land and Environment Court
Jennie Minifie (representing Ryde Environment Group)	Precis of Correspondence 1 – Allengrove Major Project Concept Plan approved by Land and Environment Court
Lisa Bella Esposito (representing ALH Group Pty Ltd)	Item 14 – Planning Proposal – 108 Herring Road, Marsfield

RESOLUTION: (Moved by Councillors Etmekdjian and Salvestro-Martin)

That the late request to address Council on Items Listed on the Agenda be allowed to address the meeting, at this time.

Record of Voting:

For the Motion: Unanimous

PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA

The following person addressed the Council:-

Name	Topic
Andrew O'Neill (representing Friends of North Ryde	Item 14 – Planning Proposal – 108 Herring Road, Marsfield and Precis of Correspondence 1 – Allengrove Major Project Concept Plan approved by Land and Environment Court

RESOLUTION: (Moved by Councillors Salvestro-Martin and Etmekdjian)

That members of the public who had requested to address Council on Items Not Listed on the Agenda be allowed to address the meeting, at this time.

Record of Voting:

For the Motion: Unanimous

PUBLIC PARTICIPATION ON ITEMS NOT LISTED ON THE AGENDA

The following person addressed the Council:-

Name	Topic
Darryl Fung	Removal of shrubs on the nature strip at 163 Morrison Road, Putney

MATTERS OF URGENCY:-

ALLENGROVE CRESCENT DEVELOPMENT CHALLENGE – Councillor Laxale

MEADOWBANK FINE ARTS COLLEGE AT MEADOWBANK TAFE – Councillor
Simon

FORMATION OF FREE MOBILE PLAYGROUP SERVICES IN THE RYDE AREA –
Councillor Simon

**REMOVAL OF FIVE SHRUBS ON THE NATURE STRIP AT 163 MORRISON
ROAD, PUTNEY** – Councillor Maggio

The Mayor, Councillor Petch raised four Matters of Urgency received from Councillors Laxale, Simon and Maggio and deemed them as urgent.

RESOLUTION: (Moved by Councillors Maggio and Salvestro-Martin)

That Council consider all four Matters of Urgency, the time being 8.03pm.

Record of voting:

For the Motion: Unanimous

MATTER OF URGENCY – ALLENGROVE CRESCENT DEVELOPMENT CHALLENGE

RESOLUTION: (Moved by Councillors Laxale and Yedelian OAM)

- (a) That Council lodge a Section 123 objection to the Allengrove Crescent Development Approval before the deadline.
- (b) That Council provide detailed legal advice to Councillors on a Section 123 challenge, or any other possible challenges and that the advice be included in the business papers for the Council meeting of 13 November 2012.
- (c) That Council seek an urgent meeting with the Minister for Planning and the local Member for Ryde in maintaining the residential zoning on the southern side of Epping Highway.

Record of Voting:

For the Motion: Unanimous

MATTER OF URGENCY – MEADOWBANK FINE ARTS COLLEGE AT MEADOWBANK TAFE

MOTION: (Moved by Councillors Simon and Yedelian OAM)

- (a) That Ryde Council notes the decision by the Department of Education to withdraw funding from the Meadowbank Fine Arts College at Meadowbank TAFE as part of the State Government \$1.8billion reduction in the education budget. Ryde Council has a proud history of working with students at the College to enrich the culture and the arts in the Ryde area, most notably through the Hungry for Art Festival. The possible closure of the facility now poses a risk to the ongoing viability of the artistic events that Ryde Council holds.
- (b) That Council write to the Member for Ryde, the Honourable Victor Dominello MP and the NSW Minister for Education, the Honourable Adrian Piccoli MP requesting that they intervene to save the College in order to maintain Council's proud artistic history and to support local students.

AMENDMENT: (Moved by Councillors Pickering and Etmekdjian)

- (a) That Ryde Council notes the decision by the Department of Education to withdraw funding from the Meadowbank Fine Arts College at Meadowbank TAFE as part of the State Government \$1.8billion reduction in the education

budget. Ryde Council has a proud history of working with students at the College to enrich the culture and the arts in the Ryde area, most notably through the Hungry for Art Festival. The possible closure of the facility now poses a risk to the ongoing viability of the artistic events that Ryde Council holds.

- (b) That Council write to the Member for Ryde, the Honourable Victor Dominello MP and the NSW Minister for Education, the Honourable Adrian Piccoli MP requesting that they intervene to save the College in order to maintain Council's proud artistic history and to support local students.
- (c) That Ryde Council write to the Federal Treasurer, Mr Wayne Swan to request that an appropriate level of federal funding be provided to NSW to prevent the necessity for cuts to education services and facilities such as the Meadowbank Fine Arts College.

On being put to the Meeting, the voting on the Amendment was four (4) votes For and eight (8) votes Against. The Amendment was LOST. The Motion was then put and CARRIED.

Record of Voting:

For the Amendment: Councillors Etmekdjian, Maggio, Pickering and Yedelian OAM

Against the Amendment: The Mayor, Councillor Petch and Councillors Chung, Laxale, Li, Pendleton, Perram, Salvestro-Martin and Simon

RESOLUTION: (Moved by Councillors Simon and Yedelian OAM)

- (a) That Ryde Council notes the decision by the Department of Education to withdraw funding from the Meadowbank Fine Arts College at Meadowbank TAFE as part of the State Government \$1.8billion reduction in the education budget. Ryde Council has a proud history of working with students at the College to enrich the culture and the arts in the Ryde area, most notably through the Hungry for Art Festival. The possible closure of the facility now poses a risk to the ongoing viability of the artistic events that Ryde Council holds.
- (b) That Council write to the Member for Ryde, the Honourable Victor Dominello MP and the NSW Minister for Education, the Honourable Adrian Piccoli MP requesting that they intervene to save the College in order to maintain Council's proud artistic history and to support local students.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Maggio, Pendleton, Pickering, Salvestro-Martin, Simon and Yedelian OAM

Against the Motion: Councillor Perram

RECOMMITTAL OF MATTER OF URGENCY – MEADOWBANK FINE ARTS COLLEGE AT MEADOWBANK TAFE

RESOLUTION: (Moved by Councillors Salvestro-Martin and Yedelian OAM)

That the Matter of Urgency – Meadowbank Fine Arts College at Meadowbank TAFE be recommitted.

Record of Voting:

For the Motion: Unanimous

Matter of Urgency – Meadowbank Fine Arts College at Meadowbank TAFE was then recommitted.

RESOLUTION: (Moved by Councillors Simon and Yedelian OAM)

- (a) That Ryde Council notes the decision by the Department of Education to withdraw funding from the Meadowbank Fine Arts College at Meadowbank TAFE as part of the State Government \$1.8billion reduction in the education budget. Ryde Council has a proud history of working with students at the College to enrich the culture and the arts in the Ryde area, most notably through the Hungry for Art Festival. The possible closure of the facility now poses a risk to the ongoing viability of the artistic events that Ryde Council holds.
- (b) That Council write to the Member for Ryde, the Honourable Victor Dominello MP and the NSW Minister for Education, the Honourable Adrian Piccoli MP requesting that they intervene to save the College in order to maintain Council's proud artistic history and to support local students

Record of Voting:

For the Motion: Unanimous

MATTER OF URGENCY – FORMATION OF FREE MOBILE PLAYGROUP SERVICES IN THE RYDE AREA

RESOLUTION: (Moved by Councillors Simon and Salvestro-Martin)

That Ryde Council undertake an investigation into opportunities for the formation of free mobile playgroup services in the Ryde area. The investigation will result in a report to Council and will include the following:

1. Sources of funding or partner for the provision of the service.
2. Options for how the service is to be provided including the parts of Ryde where the service will best be utilised.

3. Any regulatory or legislative obligations that need to be met for the provision of the service.

The report to be presented to Council by no later than December 2012 with a target start date for the provision of the service of July 2013.

Record of Voting:

For the Motion: Unanimous

MATTER OF URGENCY – REMOVAL OF FIVE SHRUBS ON THE NATURE STRIP AT 163 MORRISON ROAD, PUTNEY

Note: Darryl Fung addressed the meeting in relation to this Item.

Note: Correspondence and photographs were tabled in relation to this Item and copies are ON FILE.

MOTION: (Moved by Councillors Maggio and Salvestro-Martin)

That staff remove the five shrubs on the nature strip at 163 Morrison Road, Putney and replace them with low bearing shrubs, in consultation with the local residents.

AMENDMENT: (Moved by Councillors Perram and Etmekdjian)

That this matter be referred to the Works and Community Committee for inspection and consultation with the adjoining neighbours.

On being put to the Meeting, the voting on the Amendment was five (5) votes For and seven (7) votes Against. The Amendment was LOST. The Motion was then put and CARRIED.

Record of Voting:

For the Amendment: Councillors Chung, Etmekdjian, Pendleton, Perram and Simon

Against the Amendment: The Mayor, Councillor Petch and Councillors Laxale, Li, Maggio, Pickering, Salvestro-Martin and Yedelian OAM

RESOLUTION: (Moved by Councillors Maggio and Salvestro-Martin)

That staff remove the five shrubs on the nature strip at 163 Morrison Road, Putney and replace them with low bearing shrubs, in consultation with the local residents.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Maggio, Pickering, Salvestro-Martin and Yedelian OAM

Against the Motion: Councillors Pendleton, Perram and Simon

TABLING OF STATEMENTS

Identical statements dated 23 October 2012 from The Mayor, Councillor Petch, Councillor Li, Councillor Perram and Councillor Salvestro-Martin were tabled by the Mayor, Councillor Petch and copies are ON FILE.

The Mayor, Councillor Petch read the statement out to the gallery.

RESOLUTION: (Moved by Councillors Perram and Salvestro-Martin)

That a copy of one of the statements received from The Mayor, Councillor Petch, Councillor Li, Councillor Perram and Councillor Salvestro-Martin be included in the Minutes of this meeting, noting that all four Councillors had lodged this statement.

Record of Voting:

For the Motion: Unanimous

MAYORAL MINUTES

There were no Mayoral Minutes.

COUNCIL REPORTS

1 CONFIRMATION OF MINUTES - Council Meeting held on 14 August 2012

Note: Councillor Laxale left the meeting at 9.00pm and was not present for consideration and voting on this Item.

RESOLUTION: (Moved by Councillors Yedelian OAM and Etmekdjian)

That the Minutes of the Council Meeting 14/12, held on 14 August 2012 be confirmed.

Record of Voting:

For the Motion: Unanimous

2 CONFIRMATION OF MINUTES - Council Meeting held on 28 August 2012

Note: Councillor Laxale was not present for consideration and voting on this Item.

RESOLUTION: (Moved by Councillors Perram and Etmekdjian)

That the Minutes of the Council Meeting 16/12, held on 28 August 2012 be confirmed.

Record of Voting:

For the Motion: Unanimous

Note: Councillor Laxale returned to the meeting at 9.02pm.

3 CONFIRMATION OF MINUTES - Council Meeting held on 9 October 2012

RESOLUTION: (Moved by Councillors Yedelian OAM and Etmekdjian)

That the Minutes of the Council Meeting 18/12, held on 9 October 2012 be confirmed.

Record of Voting:

For the Motion: Unanimous

4 CONFIRMATION OF MINUTES - Extraordinary Council Meeting held on 16 October 2012

RESOLUTION: (Moved by Councillors Etmekdjian and Maggio)

That the Minutes of the Extraordinary Council Meeting 19/12, held on 16 October 2012 be confirmed.

Record of Voting:

For the Motion: Unanimous

5 REPORT OF THE PLANNING AND ENVIRONMENT COMMITTEE MEETING 11/12 held on 16 October 2012

RESOLUTION: (Moved by Councillors Simon and Salvestro-Martin)

That Council determine Items 3, 4 and 5 of the Planning and Environment Committee report, noting that Items 1 and 2 were dealt with by the Committee within its delegated powers.

Record of Voting:

For the Motion: Unanimous

3 958 VICTORIA ROAD, WEST RYDE. LOT 8 DP 819902. Local Development Application for alterations and additions to existing dwelling. LDA2012/0047

RESOLUTION: (Moved by Councillors Simon and Salvestro-Martin)

That Local Development Application No. 2012/47 at 958 Victoria Road, West Ryde being LOT 8 DP 819902 be deferred to enable a mediation to occur between the applicant and the Group Manager – Environment and Planning with an outcome in a timeframe that does not unduly delay the development application for the applicant and that the matter be returned to the Planning and Environment Committee for further determination within three months.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Pendleton, Perram, Pickering, Salvestro-Martin, Simon and Yedelian OAM

Against the Motion: Councillor Maggio

4 62 DARVALL ROAD, EASTWOOD. LOT 11 DP 6247. Local Development Application for demolition of existing dwelling and erection of a attached dual occupancy. LDA2011/380

RESOLUTION: (Moved by Councillors Simon and Chung)

That Local Development Application No. 2011/380 at 62 Darvall Road, Eastwood being LOT 11 DP 6247 be deferred for a mediation to be undertaken between the applicant, objectors and the Group Manager – Environment and Planning with an outcome in a timeframe that does not unduly delay the development application for the applicant and that the matter be returned to the Planning and Environment Committee for further determination within three months.

Record of Voting:

For the Motion: Unanimous

5 59 WHARF ROAD, GLADESVILLE. LOT D DP 342402. Local Development Application to erect a new two storey dwelling, in-ground swimming pool and front fence. LDA2012/0071

Note: Councillor Chung disclosed a less than significant non-pecuniary interest in this Item for the reason that he is familiar with the objector.

Note: Councillor Maggio disclosed a less than significant non-pecuniary interest in this Item for the reason that he is familiar with the resident objecting to the development.

MOTION: (Moved by Councillors Simon and Chung)

That Local Development Application No. 2012/71 at 59 Wharf Road, Gladesville being LOT D DP 342402 be deferred for a mediation to be undertaken between the applicant, objectors and the Group Manager – Environment and Planning with an outcome in a timeframe that does not unduly delay the development application for the applicant and that the matter be returned to the Planning and Environment Committee for further determination within three months.

AMENDMENT: (Moved by Councillors Salvestro-Martin and Laxale)

That Local Development Application No. 2012/71 at 59 Wharf Road, Gladesville being LOT D DP 342402 be approved subject to the conditions of consent as recommended by Council staff, and set out below:-

GENERAL

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

- 1. Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

Document Description	Date	Plan No/Reference
Lower Ground Floor Plan	Received 10/04/12	20122a
Ground Floor Plan	Received 17/09/12	20122b
First Floor Plan	Received 29/06/12	20122c
Elevation from Wharf Road, West Elevation	Received 29/06/12	20122d
North Elevation, South Elevation	Received 29/06/12	20122e
Sections	Received 17/09/12	20122f
Landscaping Plan and Site Plan	Received 10/04/12	20122h

Waste Management Plan, Swimming Pool Plan & Sections	Received 10/04/12	20122i
Demolition Plan	Received 10/04/12	20122j
Front Fence Elevation from Wharf Road	Received 10/04/12	20122k
Arborist Report and Tree Protection Plan prepared by Bluegum Tree Care and Consultancy	April 2012	“Arboricultural Impact Assessment of Residential Development 59 Wharf Road, Gladesville”

Prior to the issue of a **Construction Certificate**, the following amendments shall be made (as marked in red on the approved plans):

- (a) The proposed planter box (shown on Dwg No. 20122h) located in the south-eastern corner of the site is to be deleted and replaced with soft landscaping at existing ground level. In accordance with the recommendations of the submitted Arborist Report, excavation, fill and other construction activity shall be limited or avoided in this location within the Tree Protection Zone of the existing Sydney Blue Gum tree on the adjoining site.
- (b) The retaining wall within the back garden of the site, and the rear private open space areas comprising of both lawn and tiles to the northern side of the wall (accessed from the dining room), are to have a maximum height of RL 20.45 so as to minimise privacy impacts to adjoining properties.
- (c) There is to be no fill (above existing ground levels) or new retaining walls within 1.25 metres of the rear (western) boundary of the site.
- (d) Tree Protection Fencing as recommended by Bluegum Tree Care and Consultancy (Arborist Report and Tree Protection Plan, dated April 2012) is to be shown on the architectural plans.
- (e) The two *Magnolia grandiflora* ‘Alta’ proposed to be planted in the front garden are to be replaced with a locally indigenous tree reaching a mature height of 10 metres and located within the front garden. The tree is to be setback a minimum of three metres from adjoining sites and is not to be located within the Structural Root Zone (SRZ) of the existing Sydney Blue Gum at No. 61 Wharf Road.
- (f) The Lilly Pilly selected cultivar for the proposed screen planting along the rear boundary of the site is to have a maximum mature height of 2.7 metres.

The Development must be carried out in accordance with the amended plans approved under this condition.

2. **Maximum height of planting.** All planting along the northern side boundary within the rear setback of the site is to be maintained at a maximum height of 1.5 metres measured from ground level.
3. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
4. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 417183S, dated 27 February 2012.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
7. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
8. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
9. **Road Opening Permit.** To ensure all restoration works within the public road reserve will be completed and restored to Council satisfaction, the applicant shall apply for a Road Opening permit where excavation works are proposed within the road reserve. No works shall be carried out on the road reserve without this permit being paid and a copy kept on the site.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
11. **Pool filter – noise.** The pool/spa pump/filter must be enclosed in a suitable ventilated acoustic enclosure to ensure the noise emitted therefrom does not exceed 5dB(A) above the background noise level when measured at any affected residence.
12. **Depth markers.** Water depth markers are to be displayed at a prominent position within and at each end of the swimming pool.

13. **Wastewater discharge.** The spa/pool shall be connected to the Sydney Water sewer for discharge of wastewater.
14. **Resuscitation Chart.** A resuscitation chart containing warning “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL” must be provided in the immediate vicinity of the pool area so as to be visible from all areas of the pool.
15. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.
16. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council’s publication *Environmental Standards Development Criteria 1999 and City of Ryde Development Control Plan 2010 Section 8* except as amended by other conditions.
17. **Service Alterations.** All mains, services, poles, etc., which require alteration to facilitate the development shall be altered at the applicant’s expense. Written approval and signed off at completion from the relevant Public Authority shall be submitted to Council.

PRIOR TO CONSTRUCTION CERTIFICATE

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council’s Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

18. **Sediment Control Fence.** The proposed sediment control fence along the southern boundary of the site is to be installed only where it does not require trenching within the Structural Root Zone of the existing Sydney Blue Gum on the adjoining site.
19. **Site Stormwater Drainage System.** To ensure satisfactory stormwater disposal and minimise downstream stormwater impacts, stormwater runoff

from the site shall be collected and piped by gravity flow to the public road in accordance with the requirements of DCP 2010: Part 8.2- Stormwater Management. Accordingly, detailed engineering plans with certification indicating compliance with this condition are to be submitted with the Construction Certificate application.

20. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
21. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
22. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (dwelling houses with delivery of bricks or concrete or machine excavation)
23. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
24. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
25. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
26. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.

Or telephone 13 20 92.

27. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
28. **Pool fencing.** The pool fence is to be erected in accordance with the approved plans and conform with the provisions of the *Swimming Pools Act 1992* and *Swimming Pools Regulation 2008*. Details of compliance are to be reflected on the plans submitted with the **Construction Certificate**.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

29. **Site Sign**
- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
30. **Residential building work – insurance.** 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 building work authorised to be carried out by the consent commences.
31. **Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor; and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.

- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder; and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If any of the above arrangements are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates has given the Council written notice of the updated information (if Council is not the PCA).

32. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

DURING CONSTRUCTION

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

33. **Incurion of stormwater drainage into the Structural Root Zone.** Stormwater drainage pipes shown on the Ground Floor Plan (Drawing No. 20122b) will result in an incurion into the Structural Root Zone (SRZ) of the existing Sydney Blue Gum tree on the adjoining site. The stormwater drainage pipes should be relocated outside the SRZ of the tree and installed under the supervision (and in accordance with the recommendations) of the Project Arborist.
34. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
35. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.

36. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
37. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
 - (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
38. **Construction materials.** All materials associated with construction must be retained within the site.
39. **Site Facilities**

The following facilities must be provided on the site:

 - (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
40. **Site maintenance**

The applicant must ensure that:

 - (a) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (c) the site is clear of waste and debris at the completion of the works.
41. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".
42. **Construction of front fence – Arborist supervision.** A Consultant Arborist must be appointed to oversee all construction works for the proposed front masonry fence, and to ensure that construction is undertaken with minimal excavation within the Structural Root Zone (SRZ) of the Sydney Blue Gum on the adjoining site. If necessary to achieve minimal excavation within the SRZ, an alternative style of fencing in accordance with the Ryde DCP 2010 is to be erected.
43. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent.

44. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
45. **Tree works – Compliance with submitted Arborist Report and Tree Protection Plan.** All construction on the site is to take place in accordance with the recommendations of the Arborist Report & Tree Protection Plan prepared by Bluegum Tree Care and Consultancy (April 2012).
46. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
47. **Tree works – arborist supervision.** A Consultant Arborist must be appointed to oversee all works, including demolition and construction, in relation to the trees identified for retention on the site.
48. **Tree works – provision of arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Consultant Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.

PRIOR TO OCCUPATION CERTIFICATE

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

49. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 417183S, dated 27 February 2012.
50. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
51. **Engineering Certification.** To ensure stormwater drainage works are completed in accordance with approved plans, Certification shall also be obtained from a chartered civil engineer with NPER registration with

Engineers Australia, indicating the constructed works complied with DCP 2010. Part 8.2.

On being put to the Meeting, the voting on the Amendment was nine (9) votes For and three (3) votes Against. The Amendment was CARRIED. The Amendment then became the Motion.

Record of Voting:

For the Amendment: The Mayor, Councillor Petch and Councillors Etmekdjian, Laxale, Pendleton, Perram, Pickering, Salvestro-Martin, Simon and Yedelian OAM

Against the Amendment: Councillors Chung, Li and Maggio

RESOLUTION: (Moved by Councillors Salvestro-Martin and Laxale)

That Local Development Application No. 2012/71 at 59 Wharf Road, Gladesville being LOT D DP 342402 be approved subject to the conditions of consent as recommended by Council staff, and set out below:-

GENERAL

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

1. **Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

Document Description	Date	Plan No/Reference
Lower Ground Floor Plan	Received 10/04/12	20122a
Ground Floor Plan	Received 17/09/12	20122b
First Floor Plan	Received 29/06/12	20122c
Elevation from Wharf Road, West Elevation	Received 29/06/12	20122d
North Elevation, South Elevation	Received 29/06/12	20122e
Sections	Received 17/09/12	20122f
Landscaping Plan and Site Plan	Received 10/04/12	20122h
Waste Management Plan, Swimming Pool Plan & Sections	Received 10/04/12	20122i
Demolition Plan	Received 10/04/12	20122j

Front Fence Elevation from Wharf Road	Received 10/04/12	20122k
Arborist Report and Tree Protection Plan prepared by Bluegum Tree Care and Consultancy	April 2012	“Arboricultural Impact Assessment of Residential Development 59 Wharf Road, Gladesville”

Prior to the issue of a **Construction Certificate**, the following amendments shall be made (as marked in red on the approved plans):

- (a) The proposed planter box (shown on Dwg No. 20122h) located in the south-eastern corner of the site is to be deleted and replaced with soft landscaping at existing ground level. In accordance with the recommendations of the submitted Arborist Report, excavation, fill and other construction activity shall be limited or avoided in this location within the Tree Protection Zone of the existing Sydney Blue Gum tree on the adjoining site.
- (b) The retaining wall within the back garden of the site, and the rear private open space areas comprising of both lawn and tiles to the northern side of the wall (accessed from the dining room), are to have a maximum height of RL 20.45 so as to minimise privacy impacts to adjoining properties.
- (c) There is to be no fill (above existing ground levels) or new retaining walls within 1.25 metres of the rear (western) boundary of the site.
- (d) Tree Protection Fencing as recommended by Bluegum Tree Care and Consultancy (Arborist Report and Tree Protection Plan, dated April 2012) is to be shown on the architectural plans.
- (e) The two *Magnolia grandiflora* ‘Alta’ proposed to be planted in the front garden are to be replaced with a locally indigenous tree reaching a mature height of 10 metres and located within the front garden. The tree is to be setback a minimum of three metres from adjoining sites and is not to be located within the Structural Root Zone (SRZ) of the existing Sydney Blue Gum at No. 61 Wharf Road.
- (f) The Lilly Pilly selected cultivar for the proposed screen planting along the rear boundary of the site is to have a maximum mature height of 2.7 metres.

The Development must be carried out in accordance with the amended plans approved under this condition.

2. **Maximum height of planting.** All planting along the northern side boundary within the rear setback of the site is to be maintained at a maximum height of 1.5 metres measured from ground level.

3. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
4. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 417183S, dated 27 February 2012.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
7. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
8. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
9. **Road Opening Permit.** To ensure all restoration works within the public road reserve will be completed and restored to Council satisfaction, the applicant shall apply for a Road Opening permit where excavation works are proposed within the road reserve. No works shall be carried out on the road reserve without this permit being paid and a copy kept on the site.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
11. **Pool filter – noise.** The pool/spa pump/filter must be enclosed in a suitable ventilated acoustic enclosure to ensure the noise emitted therefrom does not exceed 5dB(A) above the background noise level when measured at any affected residence.
12. **Depth markers.** Water depth markers are to be displayed at a prominent position within and at each end of the swimming pool.
13. **Wastewater discharge.** The spa/pool shall be connected to the Sydney Water sewer for discharge of wastewater.

14. **Resuscitation Chart.** A resuscitation chart containing warning “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL” must be provided in the immediate vicinity of the pool area so as to be visible from all areas of the pool.
15. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.
16. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council’s publication *Environmental Standards Development Criteria 1999 and City of Ryde Development Control Plan 2010 Section 8* except as amended by other conditions.
17. **Service Alterations.** All mains, services, poles, etc., which require alteration to facilitate the development shall be altered at the applicant’s expense. Written approval and signed off at completion from the relevant Public Authority shall be submitted to Council.

PRIOR TO CONSTRUCTION CERTIFICATE

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council’s Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

18. **Sediment Control Fence.** The proposed sediment control fence along the southern boundary of the site is to be installed only where it does not require trenching within the Structural Root Zone of the existing Sydney Blue Gum on the adjoining site.
19. **Site Stormwater Drainage System.** To ensure satisfactory stormwater disposal and minimise downstream stormwater impacts, stormwater runoff from the site shall be collected and piped by gravity flow to the public road in accordance with the requirements of DCP 2010: Part 8.2- Stormwater Management. Accordingly, detailed engineering plans with certification indicating compliance with this condition are to be submitted with the

Construction Certificate application.

20. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
21. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
22. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (dwelling houses with delivery of bricks or concrete or machine excavation)
23. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
24. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
25. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
26. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.

Or telephone 13 20 92.

27. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
28. **Pool fencing.** The pool fence is to be erected in accordance with the approved plans and conform with the provisions of the *Swimming Pools Act 1992* and *Swimming Pools Regulation 2008*. Details of compliance are to be reflected on the plans submitted with the **Construction Certificate**.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

29. **Site Sign**
 - (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
 - (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
30. **Residential building work – insurance.** 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 building work authorised to be carried out by the consent commences.
31. **Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor; and

- (ii) the name of the insurer by which the work is insured under Part 6 of that Act.

(b) in the case of work to be done by an owner-builder:

- (i) the name of the owner-builder; and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If any of the above arrangements are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates has given the Council written notice of the updated information (if Council is not the PCA).

32. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

DURING CONSTRUCTION

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

33. **Incurison of stormwater drainage into the Structural Root Zone.** Stormwater drainage pipes shown on the Ground Floor Plan (Drawing No. 20122b) will result in an incurison into the Structural Root Zone (SRZ) of the existing Sydney Blue Gum tree on the adjoining site. The stormwater drainage pipes should be relocated outside the SRZ of the tree and installed under the supervision (and in accordance with the recommendations) of the Project Arborist.
34. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
35. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
36. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

37. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
 - (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.

38. **Construction materials.** All materials associated with construction must be retained within the site.

39. **Site Facilities**
The following facilities must be provided on the site:
 - (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

40. **Site maintenance**
The applicant must ensure that:
 - (a) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (c) the site is clear of waste and debris at the completion of the works.

41. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

42. **Construction of front fence – Arborist supervision.** A Consultant Arborist must be appointed to oversee all construction works for the proposed front masonry fence, and to ensure that construction is undertaken with minimal excavation within the Structural Root Zone (SRZ) of the Sydney Blue Gum on the adjoining site. If necessary to achieve minimal excavation within the SRZ, an alternative style of fencing in accordance with the Ryde DCP 2010 is to be erected.

43. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent.

44. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.

45. **Tree works – Compliance with submitted Arborist Report and Tree Protection Plan.** All construction on the site is to take place in accordance with the recommendations of the Arborist Report & Tree Protection Plan prepared by Bluegum Tree Care and Consultancy (April 2012).
46. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
47. **Tree works – arborist supervision.** A Consultant Arborist must be appointed to oversee all works, including demolition and construction, in relation to the trees identified for retention on the site.
48. **Tree works – provision of arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Consultant Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.

PRIOR TO OCCUPATION CERTIFICATE

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

49. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 417183S, dated 27 February 2012.
50. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
51. **Engineering Certification.** To ensure stormwater drainage works are completed in accordance with approved plans, Certification shall also be obtained from a chartered civil engineer with NPER registration with Engineers Australia, indicating the constructed works complied with DCP 2010. Part 8.2.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Etmekdjian, Laxale, Pendleton, Perram, Pickering, Salvestro-Martin, Simon and Yedelian OAM

Against the Motion: Councillors Chung, Li and Maggio

6 REPORT OF THE WORKS AND COMMUNITY COMMITTEE MEETING 12/12 held on 16 October 2012

RESOLUTION: (Moved by Councillors Perram and Etmekdjian)

That Council determine Items 3 and 4 of the Works and Community Committee report, noting that Items 1 and 2 were dealt with by the Committee within its delegated powers.

Record of Voting:

For the Motion: Unanimous

3 BUS PRIORITY LANE AND IMPROVEMENT WORKS BY RMS - Balaclava Road, Epping Road and Agincourt Road - UPDATE

Note: Councillor Pickering left the meeting at 9.32pm and was not present for consideration or voting on this Item.

RESOLUTION: (Moved by Councillors Perram and Salvestro-Martin)

- (a) That Council accept the funding provided by the Roads and Maritime Services (RMS) of \$690,441 which is subject to change upon mutual agreement between Council and RMS and that the expenditure of this amount be approved.
- (b) That the budget adjustment be included in the next Quarterly Review for information.
- (c) That Council approves the removal of up to five (5) trees to facilitate intersection widening and that these trees be replaced in accordance with the DCP.

Record of Voting:

For the Motion: Unanimous

4 LIVVI'S PLACE AT YAMBLE RESERVE – PROGRESS REPORT

Note: Councillor Pickering was not present for consideration or voting on this Item.

RESOLUTION: (Moved by Councillors Perram and Etmekdjian)

That an adjustment of \$232,066 be included in the next quarterly review for the purpose of paying for the asbestos removal and site remediation.

Record of Voting:

For the Motion: Unanimous

Note: Councillor Pickering returned to the meeting at 9.39pm.

7 CODE OF MEETING PRACTICE

RESOLUTION: (Moved by Councillors Yedelian OAM and Etmekdjian)

That the report be noted and deferred for a workshop and specific inputs from Councillors.

Record of Voting:

For the Motion: Unanimous

8 COUNCIL WORKSHOPS AND INDUCTION SESSIONS

RESOLUTION: (Moved by Councillors Pickering and Etmekdjian)

- (a) That Council endorse the Workshop, Induction and site visit schedule as set out in this report, subject to the half day site visits and the weekend of 1 and 2 December 2012 being deferred to 2013, in addition to the following amendments:-
- The inclusion of a workshop regarding Local Government Reforms to be held at 9.30pm on 6 November 2012;
 - The inclusion of a workshop regarding the Code of Meeting Practice to be held at 7.30pm on 20 November 2012; and
 - The workshop regarding Macquarie Park Amendment 1 being moved to 8.30pm on 20 November 2012.
- (b) That Council confirm that should more than three Councillors indicate their inability to attend a Workshop, Induction Session or site visit that it will not be held or rescheduled.

- (c) That a full program of workshops for 2013 be provided to Council for endorsement.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Maggio, Li, Pendleton, Perram, Pickering, Salvestro-Martin, Simon and Yedelian OAM

Against the Motion: Councillor Laxale

9 CODE OF CONDUCT ANNUAL REPORT

RESOLUTION: (Moved by Councillors Pickering and Etmekdjian)

That Council note the General Manager's report on Code of Conduct complaints received for the period October 2011 to September 2012.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Pendleton, Perram, Pickering, Salvestro-Martin and Simon

Against the Motion: Councillors Maggio and Yedelian OAM

10 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO THE MAYOR AND OTHER COUNCILLORS

MOTION: (Moved by Councillors Perram and Pendleton)

- (a) That Council endorse the public exhibition of the revised Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy for a period of at least 28 days.
- (b) That after the exhibition period of the draft policy, a further report be provided to Council seeking the adoption of the draft Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy and detailing any submissions received.
- (c) That Council approve the appropriate disposal of the Mayoral vehicle.
- (d) That Clause 28 be amended to include access for meeting rooms at the library, as available, for the purposes of Councillors meeting with the public during operating hours and free of charge.

AMENDMENT: (Moved by Councillors Yedelian OAM and Maggio)

- (a) That Council endorse the public exhibition of the revised Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy for a period of at least 28 days.
- (b) That after the exhibition period of the draft policy, a further report be provided to Council seeking the adoption of the draft Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy and detailing any submissions received.
- (c) That Council approve the appropriate disposal of the Mayoral vehicle.
- (d) That Clause 28 be amended to include access for meeting rooms at the library, as available, for the purposes of Councillors meeting with the public during operating hours and free of charge.
- (e) That Clause 24 be amended to offer Councillors the option of an amount up to \$2,000 in lieu of receiving a Council personal computer.

On being put to the Meeting, the voting on the Amendment was five (5) votes For and seven (7) votes Against. The Amendment was LOST. The Motion was then put and CARRIED.

Record of Voting:

For the Amendment: Councillors Chung, Etmekdjian, Salvestro-Martin, Simon and Yedelian OAM

Against the Amendment: The Mayor, Councillor Petch and Councillors Laxale, Li, Maggio, Pendleton, Perram and Pickering

RESOLUTION: (Moved by Councillors Perram and Pendleton)

- (a) That Council endorse the public exhibition of the revised Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy for a period of at least 28 days.
- (b) That after the exhibition period of the draft policy, a further report be provided to Council seeking the adoption of the draft Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy and detailing any submissions received.
- (c) That Council approve the appropriate disposal of the Mayoral vehicle.
- (d) That Clause 28 be amended to include access for meeting rooms at the library, as available, for the purposes of Councillors meeting with the public during operating hours and free of charge.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Laxale, Li, Pendleton, Perram and Simon

Against the Motion: Councillors Etmekdjian, Maggio, Pickering, Salvestro-Martin and Yedelian OAM

Note: A Notice of Rescission signed by Councillors Salvestro-Martin, Yedelian OAM and Chung was received in relation to this Item at 11.45am on 24 October 2012 and will be considered by Council at its meeting to be held on 13 November 2012.

11 DISCLOSURE OF INTEREST RETURNS - 2011-12

RESOLUTION: (Moved by Councillors Perram and Pickering)

- (a) That the Register of Disclosure of Pecuniary Interest Returns, as required under *Section 450A* of the Local Government Act, is tabled.
- (b) That the Division of Local Government, within the NSW Department of Premier and Cabinet, is provided with a copy of this report.
- (c) That Councillor Maggio's Disclosure of Pecuniary Interest Return be tabled at this time.

Record of Voting:

For the Motion: Unanimous

12 DELEGATION - GENERAL MANAGER

Note: Councillor Chung left the meeting 10.57pm and was not present for consideration or voting on this Item.

Note: Councillor Salvestro-Martin left the meeting 10.57pm and was not present for consideration or voting on this Item.

RESOLUTION: (Moved by Councillors Pickering and Etmekdjian)

That in accordance with Section 380 of the Local Government Act 1993, Council reviews and confirms that the existing delegations and the standard instrument for delegation as **ATTACHED** be granted to the General Manager for the next term of office for the Council.

Record of Voting:

For the Motion: Unanimous

13 INVESTMENT REPORT - August and September 2012

Note: Councillor Chung was not present for consideration or voting on this Item.

Note: Councillor Salvestro-Martin was not present for consideration or voting on this Item.

RESOLUTION: (Moved by Councillors Etmekdjian and Pickering)

That Council endorse the report of the Chief Financial Officer dated 10 October 2012 on Investment Report – August and September 2012.

Record of Voting:

For the Motion: Unanimous

Note: Councillors Chung returned to the meeting at 11.00pm.

Note: Councillors Salvestro-Martin returned to the meeting at 11.00pm.

14 PLANNING PROPOSAL - 108 HERRING ROAD MARSFIELD

Note: Lisa Bella Esposito (representing ALH Group Pty Ltd) and Andrew O'Neill (representing Friends of North Ryde) addressed the meeting in relation to this Item.

Note: Councillor Chung disclosed a less than significant non-pecuniary interest in this Item for the reason that he has an industry association with the applicant business.

RESOLUTION: (Moved by Councillors Pickering and Etmekdjian)

- a) That Council note the planning proposal to rezone the land at 108 Herring Road Marsfield from R2 Low Density Residential to B1 Neighbourhood Business under Ryde LEP 2010 and the proposal be forwarded to the Minister for Planning to receive a gateway determination in accordance with Section 56 of the Environmental Planning and Assessment Act 1979.
- (b) That Council include in the submission to the Department of Planning and Infrastructure that the planning proposal include hotel or motel accommodation at 108 Herring Road Marsfield in Schedule 1 – Additional Permitted Uses Ryde LEP 2010.
- (c) That in the event of a gateway determination being issued pursuant to section 56 of the Environmental Planning and Assessment Act 1979, the proposal be placed on public exhibition and a further report be presented to Council as soon as practicable after the close of the community consultation period advising of the outcomes.

- (d) That the applicant, should it lodge a development application with Council which would have any effect on traffic flows into the site, make favourable consideration for ingress and egress of traffic through Epping Road.

Record of Voting:

For the Motion: Unanimous

COMPLETION OF BUSINESS – EXTENSION OF TIME

RESOLUTION: (Moved by Councillors Etmekdjian and Maggio)

That the meeting time be extended to allow Council to complete all Items of business on the Agenda, the time being 11.20pm.

Record of Voting:

For the Motion: Unanimous

15 ESTABLISHMENT OF A PANEL OF PREFERRED PROVIDERS TO PROVIDE LEARNING AND DEVELOPMENT SERVICES TO THE CITY OF RYDE

RESOLUTION: (Moved by Councillors Pickering and Perram)

That the panel of preferred providers for the provision of Learning and Development services be endorsed for up to three (3) years, that being two (2) years plus the option of a further one (1) year at Council's discretion.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Maggio, Laxale, Li, Pendleton, Perram, Pickering, Simon and Yedelian OAM

Against the Motion: Councillor Salvestro-Martin

16 TENDER - SUPPLY, INSTALLATION AND COMMISSIONING OF A CO-GENERATION PLANT AND EQUIPMENT FOR RALC

RESOLUTION: (Moved by Councillors Etmekdjian and Pickering)

- (a) That Council accept the tender from Total Energy Solutions Pty Ltd for the sum of \$540,632 (ex GST) as recommended in the Tender Evaluation report.

- (b) That Council delegate to the General Manager the authority to enter into a contract with Total Energy Solutions Pty Ltd for the sum of \$540,632 (ex GST) on the terms contained within the tender and for minor amendments to be made to the contract documents that are not of a material nature.
- (c) That Council advise all the respondents of Council's decision.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Pendleton, Perram, Pickering, Simon and Yedelian OAM

Against the Motion: Councillors Maggio and Salvestro-Martin

17 ANNUAL TENDERS - Request for Tender - Provision of Minor Works & Services and Pre-Qualification for Large Civil Works 2012-2013 and 2013-2014

RESOLUTION: (Moved by Councillors Etmekdjian and Pickering)

- (a) That Council accept tenders for Provision of Minor Works & Services and Pre-qualification for Large Civil Works up until 30 November 2014, from the tenderers outlined in Appendices 1 and 2 of this report on an "as required" basis for the items outlined.
- (b) That the preferred contractors be advised that work will be allocated to them on an "as required" basis, following consideration at the time of the type of work, price, availability, previous workmanship, relevant expertise, previous service provided to the residents and previous compliance to safety requirements.
- (c) That the preferred contractors provide details of the required insurance (i.e. Public Liability and Workers' Compensation), and other conforming documents for approval within 14 days from the date of acceptance of the Tender.
- (d) That Council advise all the respondents of Council's decision.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Maggio, Laxale, Li, Pendleton, Perram, Pickering, Simon and Yedelian OAM

Against the Motion: Councillor Salvestro-Martin

PRECIS OF CORRESPONDENCE FOR CONSIDERATION

1 ALLENGROVE MAJOR PROJECT CONCEPT PLAN APPROVED BY LAND & ENVIRONMENT COURT

Note: Julie Worsley [representing Allengrove Against Inappropriate Development (A.A.I.D)], Noel Plumb (representing Ryde Community Alliance), Jennie Minifie (representing Ryde Environment Group) and Andrew O'Neill (representing Friends of North Ryde) addressed the meeting in relation to this Item.

RESOLUTION: (Moved by Councillors Pickering and Yedelian OAM)

That the correspondence be received and noted.

Record of Voting:

For the Motion: Unanimous

NOTICES OF MOTION

There were no Notices of Motion.

NOTICES OF RESCISSION

There were no Notices of Rescission.

QUESTIONS BY COUNCILLORS AS PER POLICY

There were no Questions by Councillors as per Policy.

PUBLIC PARTICIPATION ON ITEMS NOT LISTED ON THE AGENDA

Darryl Fung addressed the meeting in relation to Items not Listed on the Agenda earlier in the Meeting as detailed in these Minutes.

CLOSED SESSION

ITEM 18 - MACQUARIE UNIVERSITY - DRAFT DEVELOPMENT AGREEMENT

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

ITEM 19 - 41 - 45 BELMORE STREET RYDE UNAUTHORISED DEMOLITION

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (g) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

RESOLUTION: (Moved by Councillors Etmekdjian and Yedelian OAM

That the Council resolve into Closed Session to consider the above matters.

Record of Voting:

For the Motion: Unanimous

Note: The Council closed the meeting at 11.27pm. The public and media left the chamber.

18 MACQUARIE UNIVERSITY - DRAFT DEVELOPMENT AGREEMENT

Note: Councillor Simon disclosed a less than significant non-pecuniary interest in this Item for the reason that he has been involved in employment negotiations with Cochlear Limited in his capacity as a union representative.

RECOMMENDATION: (Moved by Councillors Yedelian OAM and Salvestro-Martin)

- (a) That Council support the draft development agreement and agree to place the draft Agreement on public exhibition for a minimum of 28 days.
- (b) That Council delegate to the General Manager the authority to make minor amendments to the draft Agreement and to execute the final Agreement.

Record of Voting:

For the Motion: Unanimous

19 41 - 45 BELMORE STREET RYDE UNAUTHORISED DEMOLITION

Note: Councillor Pickering disclosed a significant non-pecuniary interest in this Item for the reason that a contractor employed by his firm has also provided services to the party concerned. Councillor Pickering left the meeting at 11.35pm and did not return. Councillor Pickering was not present for consideration or voting on this Item.

RECOMMENDATION: (Moved by Councillors Perram and Laxale)

That Council resolve to issue Bayone Projects P/L with a \$3000 Penalty Infringement Notice for the unauthorised demolition of a portion of the building contrary to development consent LDA 1244/2002.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Maggio, Pendleton, Perram, Salvestro-Martin and Yedelian OAM

Against the Motion: Councillor Simon

OPEN SESSION

Note: Councillor Pickering was not present for consideration or voting on this Item.

RESOLUTION: (Moved by Councillors Etmekdjian and Perram)

That Council resolve itself into open Council.

Record of Voting:

For the Motion: Unanimous

Note: Open Council resumed at 11.50pm.

Note: Councillor Pickering was not present for consideration or voting on this Item.

RESOLUTION: (Moved by Councillors Etmekdjian and Perram)

That the recommendations of Items considered in Closed Session be received and adopted as resolutions of Council without any alteration or amendment thereto.

Record of Voting:

For the Motion: Unanimous

NATIONAL ANTHEM

The National Anthem was sung at the conclusion of the meeting.

The meeting closed at 11.53pm.

CONFIRMED THIS 13TH DAY OF NOVEMBER 2012

Chairperson

ATTACHMENT

Statements from Councillor Ivan Petch, Mayor, Councillor Justin Li, Councillor Terry Perram and Councillor Jeff Salvestro-Martin pursuant to Clause 2.18 of the Code of Conduct were tabled at this meeting. As all statements were identical, the statement from Councillor Ivan Petch, Mayor has been attached in accordance with Council's resolution.

Statement of Councillor Ivan Petch pursuant to clause 2.18 of the Code of Conduct

1. On 25 September 2012 I disclosed a less than significant non-pecuniary interest in Mayoral Minute 09/12 – Discontinuance of Supreme Court Proceedings No 2012/249917 (the "**25 September mayoral minute**").
2. Consistent with my determination that any non-pecuniary interest of mine in the 25 September mayoral minute was less than significant, I was present for consideration and discussion of, and voted in respect of, that mayoral minute, and a motion to rescind the Council's resolution to adopt the mayoral minute (the "**25 September resolution**").
3. Pursuant to clause 2.18 of the *Code of Conduct* I provide the following explanation of why, having considered the question, I determined that any conflict between my public duty and any private interest of mine in 25 September resolution, was less than significant, and did not require further action in the circumstances.
4. It was, and is, my understanding:
 - a. that the 25 September resolution was not a resolution to consent to any course of action that would determine, either directly or indirectly, my liability, or the liability of any other person, for the costs of Supreme Court Proceedings No 2012/249917 (the "**relevant proceedings**"), or that would, either directly or indirectly, bind the Council to pay any part of the costs of the relevant proceedings;
 - b. that, consequently, I had no 'pecuniary interest' in the 25 September resolution within the meaning of s 442 of the *Local Government Act 1993*;
 - c. that the interim orders in the relevant proceedings, to the discharging of which the Council, by the 25 September resolution, resolved to consent, were orders that operated to restrain those three of the six defendants to the relevant proceedings to whom they applied, only from performing, in the manner that those three defendants, acting *bona fide*, thought proper in the public interest, public functions conferred on them pursuant to s 232 of the *Local Government Act 1998*, in a manner that would not advance any private interest of any of them;
 - d. that, consequently, if any conflict could properly be said to exist between my non-pecuniary private interest in the 25 September resolution (as one of the six defendants to the relevant proceedings) and my public duty to act in the public interest as a councillor of Ryde City Council in relation to the 25 September

- resolution, that conflict was purely formal and theoretical, and consequently less than significant;
- e. that the 25 September resolution was in the public interest;
 - f. that, in the absence of any pecuniary interest, or significant non-pecuniary interest, in the 25 September resolution, I had a positive responsibility to exercise, as a newly-elected councillor, the statutory functions that the voters of Ryde had elected me to perform, and to do so in the public interest by voting in support of the 25 September resolution; and
 - g. having, for the sake of abundant caution, disclosed, in accordance with the Supplementary Provisions in clause 3.2.3 of the Council's *Code of Meeting Practice* and clause 2.13 of the Council's *Code of Conduct* a less than significant non-pecuniary interest in the 25 September resolution, there existed no impediment to my voting in respect of it.
5. On 9 October 2012 I disclosed a less than significant non-pecuniary interest in mayoral minute 11/12 – Seeking Direction of Minister re Discontinuance of Supreme Court Proceedings No 2012/249917 (the “**9 October mayoral minute**”)
 6. Consistent with my determination that any non-pecuniary interest of mine in the 9 October mayoral minute was less than significant, I was present for consideration and discussion of, and voted in respect of, that mayoral minute (the “**9 October resolution**”).
 7. Pursuant to clause 2.18 of the *Code of Conduct* I provide the following explanation of why, having considered the question, I determined that any conflict between my public duty and any private interest of mine in the 9 October resolution, was less than significant, and did not require further action in the circumstances.
 8. It was, and is, my understanding:
 - a. that the 9 October resolution was not itself a resolution to consent to any course of action that would determine, either directly or indirectly, my liability, or the liability of any other person, for the costs of the relevant proceedings, or that would itself, either directly or indirectly, bind the Council to pay any part of the costs of the relevant proceedings;
 - b. that, consequently, I had no ‘pecuniary interest’ in the 25 September resolution within the meaning of s 442 of the *Local Government Act 1993*;
 - c. that, since the effect of the 9 October resolution was to submit to the independent judgment of the Minister the question whether I should be allowed to vote in respect of a resolution in which I may have a pecuniary interest, any conflict could properly be said to exist between my non-pecuniary private interest in the 9 October resolution (as one of the six defendants to the relevant

proceedings) and my public duty to act in the public interest as a councillor of Ryde City Council in relation to the 9 October resolution, was purely formal and theoretical, and consequently less than significant;

- d. that, in the absence of any pecuniary interest, or significant non-pecuniary interest, in the 9 October resolution, I had a positive responsibility to exercise the statutory functions that the voters of Ryde had elected me to perform, and to do so in the public interest by voting in support of the 9 October resolution; and
- e. having, for the sake of abundant caution, disclosed, in accordance with the Supplementary Provisions in clause 3.2.3 of the Council's *Code of Meeting Practice* and clause 2.13 of the Council's *Code of Conduct* a less than significant non-pecuniary interest in the 9 October resolution, there existed no impediment to my voting in respect of it.



Clr. Ivan Petch
23 October 2012