

## MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 7 DECEMBER 2010

Present: The Mayor, Councillor I Cross (Chairperson) (Wahroonga Ward)  
Councillor E Malicki (Comenarra Ward)  
Councillors E Keays & C Szatow (Gordon Ward)  
Councillor J Anderson (Roseville Ward)  
Councillors T Hall & C Hardwick (St Ives Ward)  
Councillor D McDonald (Wahroonga Ward)

Staff Present: General Manager (John McKee)  
Director Corporate (John Clark)  
Director Development & Regulation (Michael Miocic)  
Director Operations (Greg Piconi)  
Director Strategy & Environment (Andrew Watson)  
Manager Urban & Heritage Planning (Antony Fabbro)  
Director Community (Janice Bevan)  
Senior Governance Officer (Geoff O'Rourke)  
Mayor's PA (Sigrid Banzer)

*The Meeting commenced at 7.01pm*

*The Mayor offered the Prayer*

### 399 **APOLOGIES**

File: S02194

Councillor Steven Holland tendered an apology for non-attendance [family commitment] and requested leave of absence.

Councillor Rakesh Duncombe tendered an apology for non-attendance [family commitment] and requested leave of absence.

#### **Resolved:**

(Moved: Councillors Malicki/Anderson)

That the apologies by Councillors Steven Holland and Rakesh Duncombe for non-attendance be accepted and leave of absence be granted.

**CARRIED UNANIMOUSLY**

## DECLARATIONS OF INTEREST

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

Councillor Jennifer Anderson declared a less than significant non-pecuniary of interest in GB.3 - 12 Woonona Avenue, Wahroonga - New Park Design Reviewed after Public Exhibition (through the exercise of her duties as a Councillor, and particularly as Chair of Council's Heritage Committee, she met the owners of the State heritage-listed property, 14 Woonona Avenue, Wahroonga. She did not know the owners prior to their introduction through her Council role. The owner of 14 Woonona Avenue provided Councillor Anderson with a written statement supporting her re-election in 2008 but this was not included in her election brochure. She did personally provide about 20 residents with copies of endorsement statements, including the aforementioned statement. This may be considered a non-pecuniary interest but if so she believes it to be less than significant and not influential in her consideration of the matters before Council and so intend to debate Item 3. She has not received any political donation from the owners of 14 Woonona Avenue.)

400

## CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499

### Resolved:

(Moved: Councillors Szatow/Anderson)

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

### C.1 Land Acquisition - Turramurra

**CARRIED UNANIMOUSLY**

## DOCUMENTS CIRCULATED TO COUNCILLORS

The Mayor adverted to the documents circulated in the Councillors' papers and advised that the following matters would be dealt with at the appropriate time during the meeting:

**Memorandums** Refer **GB.3 - 12 Woonona Avenue, Wahroonga - New Park Design Reviewed after Public Exhibition** - Memorandum by Director Strategy and Environment dated 2 December 2010 to Councillors only with attached enlargement of colour version of the Park Design Plan.

**Refer GB.4 - Exhibition of Draft Report of the Northern Heritage Conservation Areas Review** - Memorandum by Manager Urban & Heritage Planning dated 7 December 2010 to Councillors, General Manager & Directors only with attached enlargement of colour version of Attachment 8 - Draft maps (recommended boundaries).

## **CONFIRMATION OF MINUTES**

### 401 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 23 November 2010  
Minutes numbered 377 to 398

#### **Resolved:**

(Moved: Councillors Malicki/Keays)

That Minutes numbered 377 to 398 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting with the exception of Minute No 391 - Annual Report 2009 to 2010.

**CARRIED UNANIMOUSLY**

### 402 **Annual Report 2009 to 2010**

File: FY00382/2  
*Vide Minute No 391*

To present to Council the Statutory Annual Report for 2009/2010 in accordance with Section 428 of the Local Government Act 1993.

#### **Resolved:**

(Moved: Councillors Malicki/Keays)

That Minute Number 391 be adopted as printed.

*For the Resolution:                      The Mayor, Councillor I Cross, Councillors Malicki,  
Keays, Szatow, Anderson, Hardwick and McDonald*

*Against the Resolution:                Councillor Hall*

**GENERAL BUSINESS**403 **Christmas/New Year Recess Delegations**

File: CY00259/3

To grant appropriate Delegations during the Christmas/New Year recess period.

**Resolved:**

(Moved: Councillors Keays/Szatow)

- A. That the Mayor, Councillor Ian Cross, the Deputy Mayor, Councillor Jennifer Anderson and the General Manager, John McKee, be granted authority to exercise all powers, authorities, duties and functions of Council except those set out in Section 377 of the Local Government Act 1993 during the period 15 December 2010 to 31 January 2011, subject to the following conditions:
1. Such powers, authorities and functions may only be exercised by unanimous agreement between the Mayor, Deputy Mayor and General Manager.
  2. Any such power, authority, duty or function shall only be exercised by the Mayor, Deputy Mayor and General Manager jointly where they are of the opinion that the exercise of any such power, authority, duty or function could not be deferred until the meeting of Council on 1 February 2011.
  3. That the General Manager report to the earliest possible meeting on all delegations exercised over the recess period.
- B. That consultation subject to their availability be held with Ward Councillors on matters where they would normally be contacted before delegation is exercised.

**CARRIED UNANIMOUSLY**

404 **25 Babbage Road, Roseville Chase - Change of Use to Refreshment Room including Alterations and Additions and Signage**

File: DA0661/10

Ward: Roseville

Applicant: Daou Designs & Developments

Owners: Ms N Kayserian, Mr H J Kayserian and Mr V Kayserian

To determine Development Application No. 661/10, which seeks consent for change of use to refreshment room, alterations and additions and signage.

**Resolved:**

(Moved: Councillors Keays/Anderson)

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

That the Council, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No.1 – Development Standards to clause 30B of the Ku-ring-gai Planning Scheme Ordinance in respect of the floor space ratio development standard is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.

AND

That the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to DA0661/is consistent with the aims of the Policy, grants development consent to DA0661/10 for change of use to refreshment room (restaurant) and alterations and additions on land at 25 Babbage Road, Roseville, for a period of five (5) 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 (alterations and additions)**

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

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
DA-030 Revision B Proposed Ground Floor Plan	Daou Designs & Developments	06.09.10
DA-040 Revision B Proposed First Floor Plan	Daou Designs & Developments	06.09.10
DA-050 Revision B	Daou Designs & Developments	06.09.10

Plan no.	Drawn by	Dated
Existing/Proposed Elevations		
DA-060 Revision B Existing/Proposed Elevations	Daou Designs & Developments	06.09.10

**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.

## 3. No demolition of extra fabric

Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

**Reason:** To ensure compliance with the development consent.

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

### 4. Road opening permit

The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a road opening permit being obtained from Council (upon payment of the required fee) beforehand.

**Reason:** Statutory requirement (Roads Act 1993 Section 138) and to maintain the integrity of Council's infrastructure.

### 5. 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.

### 6. 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.

## **7. Structural adequacy (alterations and additions)**

Prior to commencement of any development or excavation works, the Principal Certifying Authority shall be satisfied that those components of the building to be retained and/or altered will be structurally sound and able to withstand the excavation and demolition process.

**C1. Note:** Evidence from a qualified practising structural engineer, demonstrating compliance with the above and detailing, where relevant means of support for those parts of the retained building shall be provided to the Principal Certifying Authority.

**Reason:** To ensure that the development can be undertaken in accordance with accepted construction practices as indicated on the endorsed development plans, without the need for modification of the consent.

## **8. Construction and traffic management plan**

Prior to the commencement of any works on site, the applicant must submit for review by Council's engineers a construction and traffic management plan. The following matters must be specifically addressed in the plan:

### **1. A plan view of the entire site and frontage roadways indicating:**

- dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways
- turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site
- the locations of proposed work zones in the frontage roadways
- location of any proposed crane and concrete pump and truck standing areas on and off the site
- a dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected
- an on-site parking area for employees, tradespersons and construction vehicles as far as possible

### **2. Traffic control plan(s) for the site**

All traffic control plans must be in accordance with the RTA publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

**3. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine footage must be provided.**

Light traffic roads and those subject to a load or height limit must be avoided where alternate routes exist.

A copy of this route is to be made available to all contractors and shall be clearly depicted at a location within the site.

The plan must provide evidence of RTA concurrence where construction access is provided directly from or within 20m of an arterial road.

The plan must provide a schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of their construction management obligations. These must specify that construction-related vehicles are to comply with the approved requirements.

The plan must provide measures for minimising construction related traffic movements during school peak periods.

For those construction personnel that drive to the site, the applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

The construction and traffic management plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation.

As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council's Development Engineer. Written acknowledgment from Council's Engineer shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

**Reason:** To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:****9. Signage not approved**

The signage shown on drawing DA-050 Revision B Existing/Proposed Elevations prepared by Daou Designs & Development and dated 06.09.10 is not approved as part of this consent. This shall be notated on the plans submitted with the construction certificate application.

**Reason:** Insufficient details were provided regarding the signage.

**10. Schedule of finishes**

A schedule of finishes is to be submitted to the Principal Certifying Authority identifying the proposed painted render of the building is a mid tonal grey colour.

**Reason:** To ensure the painted render colour is consistent with the streetscape character and that identified by the applicant in email dated 18 November 2010.

**11. 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.

**12. 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.

**13. Access for people with disabilities (commercial)**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that access for people with disabilities from the public domain and all car parking areas on site to all tenancies within the building is provided. Consideration must be given to the means of dignified and equitable access.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate. All details shall be prepared in consideration of the Disability Discrimination Act and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

**Reason:** To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian standards.

**14. Cleanliness and maintenance of food preparation areas**

Plans and specifications complying with the requirements of the Food Act and Regulations, Australian Standard AS 4676 2004, AS 1668 Parts 1 and 2 shall be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate. Plans and specifications shall address the following:

- floor plans, showing the layout of the fixtures and fittings, food storage and staff personal effects storage areas
- elevations and sections showing floor, wall and ceiling construction and finishes
- elevations and sections showing the installation of fixtures and fittings
- cool room/freezer construction
- internal garbage room/grease trap room construction and ventilation
- external garbage storage area
- external grease trap area
- all proposed mechanical ventilation systems
- staff disabled and public toilet facilities

**Reason:** To ensure compliance with standards for food premises.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):****15. 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.

#### **CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:**

##### **16. 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.

#### **17. Hours of work**

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 noon 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 (ie) placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by the RTA from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site, approval for such activities 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 to 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.

#### **18. 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.

#### **19. Engineering fees**

For the purpose of any development related inspections by Ku-ring-gai Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees

and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.

**Reason:** To protect public infrastructure.

## **20. Statement of compliance with Australian Standards**

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

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

## **21. 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.

## **22. 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.

### **23. 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.

### **24. Protection of public places**

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

If necessary, a hoarding is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

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

**Reason:** To protect public places.

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

During demolition and construction, the Principal Certifying Authority shall be satisfied that building materials suitable for recycling have been forwarded to an appropriate registered business dealing in recycling of materials. Materials to be recycled must be kept in good order.

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

**26. Construction signage**

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m<sup>2</sup>
- are removed within 14 days of the completion of all construction works

**Reason:** To ensure compliance with Council's controls regarding signage.

**27. 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.

**28. 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.

**29. 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.

### **30. Drainage to street**

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system. 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.

### **31. 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.

### **32. 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.

### **33. On site retention of waste docketts**

All demolition, excavation and construction waste docketts are to be retained on site, or at suitable location, in order to confirm which facility received materials generated from the site for recycling or disposal.

- Each docket is to be an official receipt from a facility authorised to accept the material type, for disposal or processing.
- This information is to be made available at the request of an Authorised Officer of Council.

**Reason:** To protect the environment.

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

### **34. Mechanical ventilation**

Following completion, installation and testing of all the mechanical ventilation systems, the Principal Certifying Authority shall be satisfied of the following prior to the issue of any Occupation Certificate:

1. The installation and performance of the mechanical systems complies with:
  - The Building Code of Australia
  - Australian Standard AS1668
  - Australian Standard AS3666 where applicable
2. The mechanical ventilation system in isolation and in association with other mechanical ventilation equipment, when in operation will not be audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest adjoining boundary.
3. The mechanical ventilation system for the charcoal chicken rotisserie equipment is provided with an appropriate filtration system, so that there is no emission of offensive odours, smoke, fumes and the like, that may impact on neighbouring premises.

**Note:** Written confirmation from appropriately qualified people, including an acoustic engineer, that the development achieves the above requirements is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

### **35. Infrastructure repair**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that any damaged public infrastructure caused as a result of construction works (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 Development Engineer and at no cost to Council.

**Reason:** To protect public infrastructure.

### **36. Fire safety certificate**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire or other safety measures forming part of this consent has been completed and provided to Council.

**Note:** A copy of the Fire Safety Certificate must be submitted to Council.

**Reason:** To ensure suitable fire safety measures are in place.

**CONDITIONS TO BE SATISFIED AT ALL TIMES:****37. Construction of food preparation and storage areas**

The construction of all food preparation and storage areas shall be in accordance with the requirements of the *Food Act 2003*, *Food Regulation 2004*, Food Standards Code, including Food Standards Code 3.2.3 (*Food Premises and Equipment*), and Australian Standard 4674-2004 (*Design Construction and Fit-out of Food Premises*).

**Reason:** To ensure compliance with food standards.

**38. Hand wash basins**

Hand wash basins provided with warm running water and a sufficient supply of liquid soap and paper towels are to be provided in close proximity to all food preparation areas including the upstairs servery and bar area.

**Reason:** To ensure compliance with food standards.

**39. Garbage and recycling facilities**

All garbage bins and recycling containers associated with the use of the premises are to be stored within the designated garbage area located at the rear of the building. The garbage storage area shall be covered, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

**Reason:** To prevent pollution of the environment and to protect the amenity of the area.

**40. Noise control – plant and machinery**

All noise generating equipment associated with the food premises, including but not limited to the mechanical ventilation/exhaust system and refrigeration/coolroom motors, shall be appropriately located and/or soundproofed so the equipment is not audible within a habitable room in any residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5db(A) above the background noise level when measured at the nearest boundary of the property.

**Reason:** To protect the amenity of surrounding residents.

**41. Notification**

The business shall be notified to NSW Food Authority prior to commencement of trading. Enquiries for on line registration should be directed to [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) .

**Reason:** To ensure compliance with the NSW Food Safety Standards.

#### **42. Noise control – plant and machinery**

All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest boundary.

**Reason:** To protect the amenity of surrounding residents.

#### **43. Hours of operation**

At all times, the hours of operation are to be restricted to:

Monday to Wednesday (9.00am to 10.00pm)  
Thursday to Saturday (9.00am to 12.00am)  
Sunday and public holidays (9.00am to 10.00pm)

The first floor terrace dining area hours of operation are to be restricted to:

Monday to Wednesday (9.00am to 9.00pm)  
Thursday to Saturday (9.00am to 10.00pm)  
Sunday and public holidays (9.00am to 9.00pm)

**Reason:** To protect the amenity of the area.

#### **44. Seating capacity**

The seating capacity of the restaurant is to be restricted to a maximum of ninety (90) patrons at any one time.

**Reason:** To protect the amenity of surrounding residents.

**CARRIED UNANIMOUSLY**

405

#### **62 Westbrook Avenue, Wahroonga - Request to Amend Terms of Drainage Easement over Downstream Property**

File: DA0540/10

Ward: Wahroonga

To consider a request by the owners of 62 Westbrook Avenue, Wahroonga to amend the terms of the drainage easement over 27 Morris Avenue to permit the passage of runoff from the new dwelling at 62 Westbrook Avenue, Wahroonga.

**Resolved:**

(Moved: Councillors Keays/McDonald)

- A. That Council grants approval for the amendment of the terms of the drainage easement over 27 Morris Avenue, Wahroonga to allow the passage of private property runoff.
- B. That authority be given to affix the Common Seal of the Council to the appropriate instrument for the extinguishment, alteration or creation of the drainage easement as necessary.
- C. That all costs associated with the amendment of the terms of the drainage easement be borne by the applicant.

**CARRIED UNANIMOUSLY**

406

**2A Heydon Avenue, Warrawee - Relocation of Council Pipe and Extinguishment of an Easement**

File: REV0007/10

To consider a request by the applicant of 1 Hampden Avenue, Wahroonga to relocate a Council stormwater pipeline and easement traversing the property.

**Resolved:**

(Moved: Councillors Keays/McDonald)

- A. That Council grant approval for the extinguishment of the existing 0.915 wide drainage easement traversing diagonally across the property.
- B. That authority be given to affix the Common Seal of the Council to the appropriate instrument for the extinguishment of the drainage easement as necessary.
- C. That all costs associated with the extinguishment of the drainage easement be borne by the applicant.
- D. That Council approve the proposal to modify the stormwater pipelines in accordance with the submitted concept drainage plans by Ibrahim Stormwater Consultants and subject to the following conditions:
  - 1. The applicant carry out all drainage works in accordance with the plans and specification approved by Council and at no cost to Council.
  - 2. The applicant carry out all drainage works in accordance with Council's standard conditions of construction.

3. The works are subject to inspections. The applicant or their engineer is to give Council at least 24 hours notice (to allow inspection) at the following stages:
- i. after completion of excavation and prior to pipe laying commencing;
  - ii. after completion of pipe laying prior to backfilling; and
  - iii. on completion of pipeline installation.

**CARRIED UNANIMOUSLY**

*Standing Orders were suspended  
to deal with GB.4 - Exhibition of Draft Report of the  
Northern Heritage Conservation Areas Review first  
after a Motion moved by Councillors Anderson and Szatow  
was CARRIED UNANIMOUSLY*

407

**Exhibition of Draft Report of the Northern Heritage Conservation Areas Review**

File: CY00138/2

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

**J Schmidt**

To present to Council for exhibition the draft report on the Ku-ring-gai Potential Heritage Conservation Areas North Review.

**Resolved:**

(Moved: Councillors Keays/Anderson)

- A. That Council resolve to exhibit the draft Ku-ring-gai Heritage Conservation Areas North Review for 28 days commencing in February 2011.
- B. That Council consider a further report early in 2011, following the period of public exhibition, to adopt the Ku-ring-gai Potential Heritage Conservation Areas North Review.

*For the Resolution:                   The Mayor, Councillor I Cross, Councillors Keays,  
Szatow, Anderson and McDonald*

*Against the Resolution:           Councillors Malicki, Hall and Hardwick*

*The above Resolution was subject to an Amendment which was LOST. The Lost Amendment was:*

*(Moved: Councillors Malicki/Hall)*

- A. *That the owners of all properties mentioned in the Ku-ring-gai Potential Heritage Conservation Areas North Review be notified as soon as possible of any proposal for their property, including becoming part of a Potential Heritage Conservation Area.*
- B. *That the report comes back before Council the first meeting of 2011 for consideration for exhibition.*

408 **12 Woonona Avenue, Wahroonga - New Park Design Reviewed after Public Exhibition**

Files: S08329, S07257

To seek Council's adoption of the exhibited plan for a new park at 12 Woonona Avenue, Wahroonga and proceed to complete documents to tender for embellishment works.

**Councillor Hall departed during debate**

**Resolved:**

*(Moved: Councillors Anderson/Szatow)*

That Council defer the matter to allow for a revised park design plan to remove the potential financial shortfall, better define public access, use and heritage character, including:

- A. Placement of entrance gate close to centre of the street frontage.
- B. Removal of The Wild Place, free form space of native plants, rocks, logs and perimeter track.
- C. Removal of steel trompe l'oeil drawn from Longwood House façade.
- D. Reconsider selection of Butia Palm and cypresses for better shade cover whilst retaining vistas to the State heritage listed item.

*For the Resolution:                      The Mayor, Councillor I Cross, Councillors Keays, Szatow, Anderson and McDonald*

*Against the Resolution:                Councillors Malicki and Hardwick*

409 **Land Acquisition - Turramurra**

File: S07257

In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2)(c) of the Act, and was dealt with in a part of the meeting closed to the public.

Section 10A(2)(c) of the Act permits the meeting to be closed to the public in respect of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

This matter is classified confidential because it deals with the proposed acquisition of property.

It is not in the public interest to release this information as it would prejudice Council's ability to acquire this and other property on appropriate terms and conditions.

Report by Director Strategy & Environment dated 26 November 2010.

**Resolved:**

(Moved: Councillors Malicki/Anderson)

That Council resolve to proceed as outlined in the report and acquire the property in Turramurra.

**CARRIED UNANIMOUSLY by those present**

*The Meeting closed at 8.32pm*

The Minutes of the Ordinary Meeting of Council held on 7 December 2010 (Pages 1 - 23) were confirmed as a full and accurate record of proceedings on 14 December 2010.

---

General Manager

---

Mayor / Chairperson