

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 12 OCTOBER 2010

Present: The Mayor, Councillor I Cross (Chairperson) (Wahroonga Ward)
Councillor S Holland (Comenarra Ward)
Councillor E Keays (Gordon Ward)
Councillors J Anderson & R Duncombe (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)
Acting Director Development & Regulation (Anne Seaton)
Director Operations (Greg Piconi)
Acting Director Strategy & Environment (Deborah Silva)
Manager Urban & Heritage Planning (Antony Fabbro)
Director Community (Janice Bevan)
Mayor's PA (Sigrid Banzer)

The Meeting commenced at 7.00pm

The Mayor offered the Prayer

312 APOLOGIES

File: S02194

Councillors Elaine Malicki and Cheryl Szatow tendered apologies for non-attendance [attending a ICTC Conference] and requested leave of absence.

NOTE: The Director Development & Regulation, Michael Miocic & the Director Strategy & Environment, Andrew Watson tendered apologies for non-attendance.

Resolved:

(Moved: Councillors McDonald/Keays)

That the apologies by Councillors Elaine Malicki and Cheryl Szatow 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.

No Interest was declared.

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:

- Late Items:** **Refer MM.1 - VALE Jake Fletcher**
- Refer PT.1 - Petition in Support of Exotic Animals in Circuses**
 - (Two Thousand, Five Hundred & Eighty-Seven [2,587]
 Signatures
- Memorandum:** **Refer GB.10 - Heritage Reference Committee - Notes of**
 Meeting held 16 August 2010 - Memorandum by Acting Director
 Strategy & Environment dated 12 October 2010 – Amendment to
 Recommendation B of the Officer's report.
- Councillors** **Canoon Road Council Drainage** - Memorandum by Director
Information: Operations dated 7 October 2010 in answer to a Question Without
 Notice that was raised by Councillor Tony Hall at the Ordinary
 Meeting of Council held 14 September 2010.

CONFIRMATION OF MINUTES

313 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 21 September 2010
Minutes numbered 296 to 311

Resolved:

(Moved: Councillors McDonald/Keays)

That Minutes numbered 296 to 311 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR314 **VALE Jake Fletcher**

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File: S04813

Councillor Jennifer Anderson addressed Council

On behalf of Ku-ring-gai Council, I would like to pay tribute to the life of Jake Fletcher, who passed away on Wednesday, 6 October, 2010, after being hospitalised due to complications stemming from a congenital medical condition.

Jake was a much loved, enthusiastic young member of staff. As a Development Assessment Officer, he was a member of the South Team who commenced employment with Council on 29 April 2008.

Jake contributed to the organisation on many levels. He was most professional in his assessment role, well regarded by his many friends and active in seeking improvements to staff conditions in his own gentle way.

In his 27 years, Jake achieved so much and the organisation will be poorer for his passing.

On behalf of Council, I offer our sincere condolences to Jake's family and friends during this very difficult time.

Resolved:

(Moved: Mayor, Councillor I Cross/Councillor Holland)

- A. That this Mayoral Minute be received and noted.
- B. That we stand for a minute's silence to honour the life of Jake Fletcher.
- C. That the Mayor write to Jake's family on behalf of Council to express our sympathy for their loss.

CARRIED UNANIMOUSLY

One Minute Silence was observed

PETITIONS

- 315 **Internet Petition to Ban Exotic Animal Circuses from Ku-ring-gai Council (Four Thousand, One Hundred and Eighty-Four [4,184] Signatures)**

File: S02447

The following Petition was presented by Councillor Tony Hall:

"We, the undersigned, respectfully request that Council reinstate the recently overturned ban on circuses using exotic and wild animals from performing on Ku-ring-gai Council property. The ban was applauded by caring citizens when introduced in 1999, and the Council should continue advancing our society to a more humane one, not take a step backwards (e-Petition URL: http://animalsaustralia.org/take_action/petitions/ku-ring-gai-circus-ban - sponsored by Animals Australia Inc, Victoria)."

Resolved:

(Moved: Councillors Hall/Keays)

That the Petition be received and referred to the appropriate officer of Council for attention.

CARRIED UNANIMOUSLY

- 316 **Internet Petition to Request Ku-ring-gai Council Reinstate their Ban on Circuses (Four Thousand, Three Hundred and Forty-One [4,341] Signatures)**

File: S02447

The following Petition was presented by Councillor Tony Hall:

"We, the undersigned, respectively request that Ku-ring-gai Council, on Sydney's North Shore, reinstate the ban on circuses which was introduced in 1999. Teaching animals to perform inappropriate tricks does nothing to educate the public or foster respect for animals and the living conditions for performing animals often fail to meet basic welfare needs, there is no justification for animal circuses in the 21st Century (e-Petition from website: www.iPetitions.com - sponsored by Animals Asia Foundation (Australia) Limited)."

Resolved:

(Moved: Councillors Hall/Keays)

That the Petition be received and referred to the appropriate officer of Council for attention.

CARRIED UNANIMOUSLY

317 **Petition in Support of Exotic Animals in Circuses - (Two Thousand, Five Hundred & Eighty-Seven [2,587] Signatures)**

File: S02447

"We, the undersigned, support the use of exotic animals, meaning Lions and Monkeys, in circuses and it is our belief that there is no cruelty involved and Councils should not ban them in circuses using Council owned or controlled grounds."

Resolved:

(Moved: Councillors Anderson/Hardwick)

That the Petition be received and referred to the appropriate officer of Council for attention.

CARRIED UNANIMOUSLY

REPORTS FROM COMMITTEES

Minutes of Ku-ring-gai Traffic Committee

File: S02110

Meeting held 23 September 2010

Minutes numbered KTC9 to KTC14

318 **General Matter Items under Delegated Authority**

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File: S02738

Vide Minute No KTC9

Advice on matters considered under Delegated Authority.

Resolved:

(Moved: Councillors Keays/McDonald)

That the information regarding traffic facilities during July 2010 to September 2010 be noted.

CARRIED UNANIMOUSLY

319 **Womerah Street, Turramurra**

File: TM10/02

Ward: Comenarra

Electorate: Ku-ring-gai

Vide Minute No KTC10

The following members of the public addressed Council:

J Thompson

T Naylor

W Simmons

To consider a request from residents for 4P parking restrictions in Womerah Street, Turramurra.

Resolved:

(Moved: Councillors Keays/McDonald)

- A. That existing '4P 8:30am-6pm Mon-Fri' parking restriction on the western side of Womerah Street be extended to southern property boundary of 6 Womerah Street, as shown on Plan No. Womerah/KTC/09/10 (Revised).
- B. That a '4P 8:30am-6pm Mon-Fri' parking restriction be installed on the eastern side of Womerah Street, as shown on Plan No. Womerah/KTC/09/10 (Revised).
- C. That the residents of the whole length of Womerah Street be notified of Council's decision.
- D. That the owner of the vehicles permanently-parked and used for storage at the southern end of Womerah Street be informed of Council's decision.
- E. That Council's Team Leader Regulation be requested to enforce the approved 4P restrictions in Womerah Street and that Council continues to monitor traffic and parking conditions in the narrow section of Womerah Street.

CARRIED UNANIMOUSLY

320 **Rushall Street / Pentecost Avenue, Pymble**

File: TM7/02

Ward: Wahroonga

Electorate: Davidson

Vide Minute No KTC11

To consider traffic arrangements at the intersection of Rushall Street and Pentecost Avenue, Pymble.

Resolved:

(Moved: Councillors Keays/McDonald)

- A. That turn/entry restrictions and associated signage/pavement marking be installed in Pentecost Avenue and Rushall Street, in accordance with Plan No. Rushall_Pentecost/KTC/09/10 (Revised), subject to Roads and Traffic Authority approving the Traffic Management Plan submitted by Council.
- B. That residents of Nos. 100 and 102 Pentecost Avenue be informed of Council's decision.

CARRIED UNANIMOUSLY

321 **Eastern Arterial Road, St Ives**

File: TM9/02

Ward: St Ives

Electorate: Davidson

Vide Minute No KTC12

To consider measures to reduce the risk of vehicles running off road and head-on collisions on Eastern Arterial Road between Barra Brui Crescent and Nicholson Avenue, St Ives.

Resolved:

(Moved: Councillors Keays/McDonald)

- A That Council request the Roads and Traffic Authority to implement a 50 km/h speed limit on Eastern Arterial Road, St Ives, between Barra Brui Crescent and Nicholson Avenue, or some larger length of road that includes this section.
- B That profile line marking on the double centrelines and the lane lines in Eastern Arterial Road between Barra Brui Crescent and Nicholson Avenue be installed, as indicated on Plan No. E A Road/KTC/09/10 (Sheet 5 of 5).
- C That Council apply white paint and reflective glass beads to face and top of the northern/eastern kerb in Eastern Arterial Road, St Ives, between No. 66 Eastern Arterial Road and Burraneer Avenue, as indicated on Plan No. E A Road/KTC/09/10 (Sheet 5 of 5).
- D That a Curve warning sign (W1-3B) be installed outside No. 74 Eastern Arterial Road, facing downhill traffic, as shown on Plan No. E A Road/KTC/09/10 (Sheet 4 of 5).
- E That Council continue monitoring traffic conditions in the section of Eastern Arterial Road between Barra Brui Crescent and Nicholson Avenue to determine whether further measures are required.

- F That the Member for Davidson and Dr Shahriar Amjadi of 92 Eastern Arterial Road, St Ives be informed of Council's decision.

CARRIED UNANIMOUSLY

322

Grosvenor Road and Gladstone Parade, Lindfield

File: TM6/02

Ward: Roseville

Electorate: Ku-ring-gai

Vide Minute No KTC13

To consider traffic and parking proposal in Grosvenor Road and Gladstone Parade, as requested by Lindfield Public School.

Resolved:

(Moved: Councillors Keays/McDonald)

- A. That the Pedestrian Crossing in Grosvenor Road, outside Lindfield Public School, not be converted to a Wombat Crossing by the installation of a raised platform speed hump.
- B. That a Children's Crossing and associated signage be installed in Grosvenor Road, at the Pedestrian Crossing outside Lindfield Public School, as shown on Plan No. Grosvenor/KTC/09/10.
- E. That the existing 'No Stopping' zone on the northern side of Gladstone Parade, immediately east of the intersection with Drover's Way, be extended eastwards by six metres, as shown on Plan No. Gladstone/KTC/09/10 (Sheet 3 of 3).
- F. That Principal of Lindfield Public School and Gladstone Parade residents, who were consulted of the proposed parking restrictions, be informed of Council's decision.

The following to be deferred for further consultation with the school and Gladstone Parade residents:

- C. That 'No Parking' and '5-minute Parking' zones not be introduced in Gladstone Parade, west of the existing Pedestrian Crossing, at the locations shown on Plan No. Gladstone/KTC/09/10 (Sheet 1 of 3).
- D. That '5-minute Parking' zone not be installed in Gladstone Parade, outside No. 4-6 Gladstone Parade, at the location shown on Plan No. Gladstone/KTC/09/10 (Sheet 2 of 3).

CARRIED UNANIMOUSLY

323

Greengate Road, Killara

File: TM5/02

Vide Minute No KTC14

To consider a request from Greengate Hotel to close a section of Greengate Road at Pacific Highway on Christmas Eve 2010.

Resolved:

(Moved: Councillors Keays/McDonald)

That Council approve the temporary closure of Greengate Road between Pacific Highway and the eastern end of Greengate Hotel and express no objection for the closure of two north and south bound lanes on Pacific Highway in the vicinity of Greengate Hotel, on Friday, 24 December 2010, subject to:

1. The Roads and Traffic Authority approving the Traffic Management Plan submitted by the Greengate Hotel for Christmas Eve 2010.
2. The Greengate Hotel fully implementing the Roads and Traffic Authority approved Traffic Management Plan to ensure safety of the patrons and to address the traffic impacts that may result from the proposed road closure
3. The eastbound section of Greengate Road between Pacific Highway and the eastern end of Greengate Hotel be closed from 3.00pm on 24 December to 1.00am on 25 December 2010, while the whole section be closed between 9.00pm and 1.00am in the same period.
4. The travel lanes on Pacific Highway be reduced to a single lane in both directions in the vicinity of Greengate Hotel from 9.00pm on 24 December to 1.00am on 25 December 2010 and the speed limit on Pacific Highway be reduced from 60km/h to 30km/h.
5. The closure being advertised by Council as required by Section 116 of the Roads Act 1993 and no substantial objection to the proposal which cannot be addressed, being received by the closing date of the advertising.
6. The Applicant inform the affected residents of the proposed road closure of Greengate Road and other detour arrangements in the area on Christmas Eve 2010.
7. The Applicant providing and maintaining all necessary signs, barricades and all other safety equipment at its expense to properly effect the changed traffic conditions.
8. The Applicant placing appropriate advance warning signs on Pacific Highway to warn motorists about the closure of travel lanes on Pacific Highway.

9. The Applicant providing Council with details of liaison with the Police Local Area Command Kuring-gai in regard to providing an adequate number of suitable identifiable personnel to control pedestrian movement across Pacific Highway on Christmas Eve 2010.
10. The Applicant engaging RTA accredited traffic controllers to monitor the road closure at all times and to provide vehicular access for emergency vehicles and residents if such access is required.
11. The Greengate Hotel responds in writing to Council by Friday, 17 December 2010, regarding the acceptance of Council's conditions for the temporary closure of a section of Greengate Road and traffic alterations on Pacific Highway on Christmas Eve 2010.

CARRIED UNANIMOUSLY

GENERAL BUSINESS

324 **Disclosure of Interests Returns Register**

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File: S02167

To table Council's Disclosure of Interests Returns Register in accordance with the Local Government Act.

Resolved:

(Moved: Councillors Duncombe/Anderson)

That the tabling of the Disclosure of Interests Returns Register be noted.

CARRIED UNANIMOUSLY

325 **Code of Conduct Complaints**

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File: S06948

To report on Code of Conduct complaints in the period July 2009 to June 2010.

Resolved:

(Moved: Councillors Duncombe/Anderson)

That the report be received and noted.

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

Against the Resolution: Councillor Hall

326 **Complaints Management Policy**

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File: S07012

To consider the implementation of a revised Complaints Management Policy.

Resolved:

(Moved: Councillors Duncombe/Anderson)

That the Complaints Management Policy be adopted.

CARRIED UNANIMOUSLY

327 **Policy for the Payment of Expenses & Provision of Facilities to
Councillors**

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File: S03779

To recommend the adoption of a revised Policy for the Payment of Expenses and
Provision of Facilities to Councillors.

Resolved:

(Moved: Councillors Duncombe/Anderson)

That the revised Policy for the Payment of Expenses and Provision of Facilities to
Councillors be adopted.

CARRIED UNANIMOUSLY

328 **Planning Proposal for Ku-ring-gai Principal Local Environmental Plan**

File: S06413

To have Council consider a Planning Proposal for the Ku-ring-gai Principal Local Environmental Plan.

Resolved:

(Moved: Councillors Duncombe/Anderson)

- A. That Council, in accordance with section 458 of the *Local Government Act, 1993* determine if it is necessary to apply for pecuniary interest exemptions under the Act to allow Councillors to participate in the plan making process for the introduction of a comprehensive standard template Local Environmental Plan to replace the Ku-ring-gai Planning Scheme Ordinance.
- B. That Council, in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*, submit the Planning Proposal for the Ku-ring-gai Principal Local Environmental Plan to the Department of Planning, as provided at Attachment 1, to seek a gateway determination.
- C. That upon the receipt of any gateway determination, a further report be brought back to Council on the conditions of the determination and any implication for Council's adopted process and timetable for the completion of the Principal LEP.

CARRIED UNANIMOUSLY

329 **Heritage Reference Committee - Notes of Meeting held 16 August 2010**

File: S07620

To advise Council of the notes of the Heritage Reference Committee meeting held 16 August 2010.

Resolved:

(Moved: Councillors Duncombe/Anderson)

That Council receive and note the Heritage Reference Committee meeting notes of 16 August 2010, as amended.

CARRIED UNANIMOUSLY

330 **Wahroonga Estate - Bushland Offset**

File: S05913

To brief Council on the proposal to transfer two parcels of land zoned E2 - Environmental Conservation from private ownership into public ownership as part of the redevelopment of the Sydney Adventist Hospital site.

Resolved:

(Moved: Councillors Duncombe/Holland)

- A. That Council confirm its preference that both E2 zones within the Wahroonga Estate be dedicated to the Department of Climate Change & Water (DECCW).
- B. That Council advise the Department of Climate Change and Water (DECCW) of its decision.
- C. That Council seek to ensure in future applications for redevelopment of the site, that public access through the Wahroonga Estate is maintained through the redeveloped areas of the site.

CARRIED UNANIMOUSLY

331 **1 Kalang Avenue, Killara - Alterations & Additions**

File: DA0533/10

Ward: Gordon

Applicant: Mr Robert Acres

Owners: Mr R R Acres & Mrs J E Acres

To determine Development Application No 0533/10, which seeks consent for alterations and additions to the existing dwelling.

Resolved:

(Moved: Councillors Hall/Keays)

That the Council, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No 1 – Development Standards to the height standard in clause 46 of the Ku-ring-gai Planning Scheme Ordinance 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.

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 DA0533/10 is consistent with the aims of the Policy, grant development consent to DA0533/10 for alterations and additions on land at No 1 Kalang Avenue, Killara, for a

period of five (5) years from the date of the Notice of Determination, subject to the following conditions:

SCHEDULE A - Deferred commencement conditions

Evidence required to satisfy the following condition must be submitted to Council within twelve (12) months of the date of this consent.

This consent does not operate until the following deferred commencement conditions have been satisfied:

1. Surrender of development consent (deferred commencement)

The applicant must surrender the following development consent to Council by in accordance with Clause 97 of the Environmental Planning and Assessment Regulation 2000:

Development Consent No.	Dated	For:
DA: 0685/07	17 December 2007	Alterations and additions

This consent will not operate until the above development consent has been surrendered.

Reason: To ensure that there is certainty as to the consent applying to the subject land.

Upon receipt of written notification from Council that the abovementioned condition has been satisfied, the following conditions will apply:

SCHEDULE B - The standard conditions of consent are set out as follows:

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:

Plan No	Drawn by	Dated
DA001, revision E, site plan and site plan analysis	NKT Architecture	21 September 2010 and received by Council on 22 September 2010
DA099, revision A, lower basement (garden room), plan	NKT Architecture	29 June 2010 and received by Council on 28 July 2010
DA100, revision A, basement plan	NKT Architecture	29 June 2010 and received by Council on 28 July 2010
DA101, revision D, ground floor plan	NKT Architecture	29 June 2010 and received by Council on

Plan No	Drawn by	Dated
		28 July 2010
DA102, revision G, first floor plan	NKT Architecture	21 September 2010 and received by Council on 22 September 2010
DA103, revision F, roof plan	NKT Architecture	21 September 2010 and received by Council on 22 September 2010
DA201, revision G, north and east elevations	NKT Architecture	21 September 2010 and received by Council on 22 September 2010
DA202, revision G, south and west elevation	NKT Architecture	21 September 2010 and received by Council on 22 September 2010
DA301, revision E, sections A-A & D-D	NKT Architecture	17 September 2010 and received by Council on 22 September 2010
DA302, revision E, sections B-B & C-C	NKT Architecture	17 September 2010 and received by Council on 22 September 2010

Document(s)	Dated
BASIX certificate No. A96203	5 October 2010

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. Access through public reserve not permitted

Access for construction purposes shall not be gained through the adjoining public reserve. Should no alternative access exist, an application for access to the construction site via the public reserve shall be submitted to Council for consideration and approval prior to the commencement of works.

Reason: To protect public reserves.

9. Tree replenishment

Seven trees are to be planted within the rear of the site-two *Angophora costata* (Smooth-barked Apple), two *Syncarpia glomulifera* (Sydney Turpentine) and

three *Elaeocarpus reticulatus* (Blueberry Ash). Trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

Reason: To maintain the treed character of the area and enhance riparian area.

10. Construction waste management plan

Prior to the commencement of any works, the Principal Certifying Authority shall be satisfied that a waste management plan, prepared by a suitably qualified person, has been prepared in accordance with Council's DCP 40 – Construction and Demolition Waste Management.

The plan shall address all issues identified in DCP 40, including but not limited to: the estimated volume of waste and method for disposal for the construction and operation phases of the development.

Note: The plan shall be provided to the Certifying Authority.

Reason: To ensure appropriate management of construction waste.

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

11. NSW Rural Fire Service

The works are to be undertaken in accordance with the recommendations in the bushfire Assessment Report by Stuart McMonnies of Bushfire Hazard Solutions ref No. 1 Kalang Ave Killara dated September 2009.

Details are to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect against bushfire

12. Long service levy

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

Reason: Statutory requirement.

13. 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.

14. Excavation for services

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

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

Reason: To ensure the protection of trees.

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 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. 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.

20. 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.

21 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.

22. 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.

23. Guarding excavations

All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

Reason: To ensure public safety.

24. Toilet facilities

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

Reason: Statutory requirement.

25. 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.

26. 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.

27. 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 2.5m²
- are removed within 14 days of the completion of all construction works

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

28. Road reserve safety

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

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

29. 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.

30. Erosion control

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be

maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifying Authority and Council officers.

Reason: To protect the environment from erosion and sedimentation.

31. Drainage to existing system

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the existing site drainage system. The installation of new drainage components must be completed by a licensed contractor in accordance with AS3500.3 (Plumbing Code) and the BCA. No stormwater runoff is to be placed into the Sydney Water sewer system. If an illegal sewer connection is found during construction, the drainage system must be rectified to the satisfaction of Council and Sydney Water.

Reason: To protect the environment.

32. 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.

33. 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.

34. On site retention of waste dockets

All demolition, excavation and construction waste dockets 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:

35. Compliance with BASIX Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority

shall be satisfied that all commitments listed in BASIX Certificate No. A96203 have been complied with.

Reason: Statutory requirement.

36. 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.

37. Swimming pool (part 1)

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

- C1 1. Access to the pool/spa shall be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act, 1992:
- (a) The pool shall not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed; and
 - (b) The barrier is to conform to the requirements of AS 1926-1 2007 Fences and Gates for Private Swimming Pools.

Reason: To ensure the safety of children.

38. Removal of noxious plants & weeds

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

Schedule

Plant species

Asparagus densiflorus (Asparagus Fern)
Bryophyllum spp. (Mother of Millions)
Bidens pilosa (Cobblers Peg)
Cinnamomum camphora (Camphor laurel)
Delairea odorata (Cape Ivy)
Hedychium gardnerianum (Ginger Lily)
Nephrolepis cordifolia (Fishbone fern)
Ochna serrulata (Ochna)
Senna pendula (Cassia)
Tradescantia albiflora

Reason: To protect the environment.

CONDITIONS TO BE SATISFIED AT ALL TIMES:**39. NSW Rural Fire Service**

The works and property are to be maintained in accordance with the recommendations in the Bushfire Assessment Report by Stuart McMonnies of Bushfire Hazard Solutions ref No. 1 Kalang Ave Killara dated September 2009.

Reason: To protect against bushfire

40. 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.

41. Swimming pool (part 2)

At all times:

1. Access to the swimming pool must be restricted by fencing or other measures as required by the Swimming Pools Act 1992.

Reason: Health and amenity.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**332 Wild & Exotic Animals Performing**

File: S02447

The following members of the public addressed Council:

**B Anderson
J Field
L Madden
Z Dawson
J Storaker
H Braban
A Brittan**

Notice of Rescission from Councillor Steven Holland, Elise Keays and Tony Hall dated 22 September 2010

We, the undersigned, rescind the Motion of 10 August 2010 (Minute No 248) relating to the overturning of the Council's ban on wild and exotic animals performing in travelling circuses.

Resolved:

(Moved: Councillors Holland/Hardwick)

That the matter be deferred until the next Meeting of Council due to there not being full Council tonight.

*For the Resolution: The Mayor, Councillor I Cross, Councillors
Holland, Keays, Anderson, Hardwick*

Against the Resolution: Councillors Duncombe, Hall and McDonald

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

(Moved: Councillors Hall/Keays)

That the above Notice of Rescission be adopted.

GENERAL BUSINESS (cont)

333

Audited General Purpose & Special Purpose Financial Reports for year ended 30 June 2010 & Auditor's Report

File: FY00259/3

To present to Council the Annual Financial Statements and audit reports from Council's external auditor, Hill Rogers Spencer Steer Chartered Accountants for the year ended 30 June 2010 and to provide a summary of Council's financial performance and financial position at 30 June 2010.

Resolved:

(Moved: Councillors Keays/Duncombe)

That Council receives the audited Financial Statements and the report of Council's external auditor, Hill Rodgers Spencer Steer Chartered Accountants.

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

Against the Resolution: Councillor Hall

334 **Local Government Urban Planning & Development Summit**

File: S07223

To advise Council of the Local Government Urban Planning & Development Summit 2010.

Resolved:

(Moved: Councillors Keays/Anderson)

That Council determine if it wishes to send delegates to the Local Government Urban Planning & Development Summit 2010 and any Councillor that wishes to attend the Conference to inform the General Manager as soon as possible.

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

Against the Resolution: *Councillor Hall*

335 **Urban Design Excellence Panel (UDEP) Terms of Reference - Final Report**

File: S08367

For Council to adopt the Urban Design Excellence Panel (UDEP) Terms of Reference and to adopt the new fees and charges associated with the Urban Design Excellence process.

Resolved:

(Moved: Councillors Keays/Anderson)

That the Urban Design Excellence Panel (UDEP) Terms of Reference be deferred to the first available meeting of Council to seek clarity surrounding Councillors/public participation.

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

Against the Resolution: *Councillor Hall*

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

(Moved: Councillors Keays/Duncombe)

- A. That Council adopt the Urban Design Excellence Panel (UDEP) Terms of Reference as attached to this report.*
- B. That Council adopt the Expression of Interest (Eoi) selection process for the Urban Design Excellence Panel members as set out in this report.*
- C. That Council adopt the new charges for the Urban Design Excellence process as set out in this report and in the Urban Design Excellence Panel (UDEP) Terms of Reference.*
- D. That Council resolve to exhibit a revision to Council's Fees and Charges Schedule, for the required statutory period, incorporating the adopted Urban Design Excellence Panel charges plus GST.*

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 241 OF GENERAL REGULATIONS

336 Attendance at 2010 Local Government Association of NSW Annual Conference

File: CY00210/2

Councillor Anderson drew Council's attention to the fact that she seeks urgency to deal with the item of possible attendance at the 2010 Local Government Association of NSW Annual Conference. Previous Resolution required notification of intent to attend by 31 August 2010. Councillor Anderson was unable to confirm at that point in time but is now available and would like to attend but needs to have resolution of Council to do so. This is the last meeting before Conference registrations close.

*The following item was dealt with after a Motion moved by
Councillors Anderson & Keays to have the matter dealt with at the
meeting was CARRIED UNANIMOUSLY & the
Chairperson ruled urgency*

Resolved:

(Moved: Councillors Anderson/Keays)

That Councillor Jennifer Anderson attend the 2010 Local Government Association of NSW Annual Conference in Albury from 24 October 2010 to 27 October 2010.

CARRIED UNANIMOUSLY

337 **Leave of Absence**

File: S02194

Councillor Hall requested leave of absence from the Ordinary Meeting of Council to be held on 19 October 2010 [family commitments].

Resolved:

(Moved: Councillors Anderson/McDonald)

That the apologies by Councillor Hall for non-attendance at the Ordinary Meeting of Council of 19 October 2010 be accepted and leave of absence granted.

CARRIED UNANIMOUSLY

The Meeting closed at 8.25pm

The Minutes of the Ordinary Meeting of Council held on 12 October 2010 (Pages 1 - 30) were confirmed as a full and accurate record of proceedings on 19 October 2010.

General Manager

Mayor / Chairperson