

## MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 24 NOVEMBER 2009

Present: The Mayor, Councillor I Cross (Chairperson) (Wahroonga Ward)  
Councillors S Holland & E Malicki (Comenarra Ward)  
Councillors E Keays & C Szatow (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)  
Director Development & Regulation (Michael Miodic)  
Director Operations (Greg Piconi)  
Acting Director Strategy & Environment (Peter Davies)  
Manager Urban & Heritage Planning (Antony Fabbro)  
Director Community (Janice Bevan)  
Senior Governance Officer (Geoff O'Rourke)  
Director Development & Regulation's PA (Judy Murphy)

*The Meeting commenced at 7.00pm*

*The Mayor offered the Prayer*

### APOLOGIES

File: S02194

**NOTE:** The Director Strategy & Environment, Andrew Watson tendered an apology for non-attendance.

### 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 Rakesh Duncombe declared a less than significant non-pecuniary interest to Item C.1 - Debt Recovery Action (due to a personal relationship with that person).

Councillor Tony Hall declared no conflict of interest to Item GB.1 - Use of Council Email Facilities - Councillor Tony Hall and Code of Conduct.

Councillor Tony Hall declared no conflict of interest to Item GB.2 - Alleged Overbearing Conduct - Councillor Tony Hall and Code of Conduct.

Councillor Jennifer Anderson declared a less than significant non-pecuniary interest to Item GB.13 - 12 Woonona Avenue, Wahroonga - Embellishment Requirements (had met the owners of "The Briars" 12 Woonona Avenue, Wahroonga - not known prior to being elected as a Councillor).

258 **CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING**

File: S02499

**Motion:**

(Moved: Councillors Malicki/Holland)

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 the legal advice not including the rating information on the following item:

- C.1 **Debt Recovery Action** - Report by Director Corporate dated 11 November 2009

*For the Motion:* Councillors Holland, Malicki, Hall, Hardwick and McDonald

*Against the Motion:* The Mayor, Councillor I Cross, Councillors Keays, Szatow, Anderson, Duncombe

*The voting being EQUAL, the Mayor exercised his Casting Vote  
AGAINST the Motion*

**The Motion was LOST**

**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 NM.1: Transport & Traffic Policy - On-Street Parking Close to Schools - Letter from Masada College dated 17 November 2009 relating to student parking in Lancaster Avenue, St Ives.

**Memorandums:** Refer GB.12 - Planning Committee Meeting - Minutes of 9 November 2009 - Reclassification Recommendations.

**Refer GB.13 - 12 Woonona Avenue, Wahroonga -**  
Embellishment Requirements - Memorandum by Director  
Operations dated 24 November 2009 with attached letter from  
the owners of the property.

**Refer GB.14 - Annual Report 2008 to 2009** - Email from  
Councillor Malicki to General Manager regarding 2 errors in the  
Annual Report 2008 to 2009 publication.

**Refer C.1 - Debt Recovery Action** - Confidential  
Memorandum by General Manager dated 24 November 2009  
with a confidential attachment circulated to Councillors only

## **CONFIRMATION OF MINUTES**

### 259 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 10 November 2009  
Minutes numbered 238 to 257

#### **Resolved:**

(Moved: Councillors Malicki/Anderson)

That Minutes numbered 238 to 257 circulated to Councillors were taken as read and  
confirmed as an accurate record of the proceedings of the Meeting.

**CARRIED UNANIMOUSLY**

## **PETITIONS**

### 260 **Support for the Preservation of Surgeon White Reserve, St Ives - (Eighteen [18] Signatures)**

File: S06666

#### **The following Petition was presented by Councillor Tony Hall:**

"We, the undersigned, support the preservation of Surgeon White Reserve, St Ives,  
and strongly oppose the redeployment of the site into an active sportsground. We  
call for the Council to delete this option from the planning agenda."

#### **Resolved:**

(Moved: Councillors Hall/Hardwick)

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

**CARRIED UNANIMOUSLY**

**GENERAL BUSINESS**

261 **Sustainability Reference Committee Notes of Meeting held 12 October 2009**

.  
File: S07619

To bring to the attention of Council the proceedings of the Sustainability Reference Committee Meeting held on 12 October 2009.

**Resolved:**

(Moved: Councillors Holland/Malicki)

That the notes and attachments of the Sustainability Reference Committee Meeting held on 12 October 2009 be received and noted.

**CARRIED UNANIMOUSLY**

262 **Budget Review 2009 to 2010 - 1st Quarter Review as at September 2009**

.  
File: FY00315

To present to Council the quarterly financial review for the 1st quarter ended 30 September 2009.

**Resolved:**

(Moved: Councillors Duncombe/Malicki)

- A. That Council adopt the budget adjustments contained in this report.
- B. That the Restricted Assets Report Forecast to 30 June 2010 as at 30 September 2009, as shown in Attachment A be noted.
- C. That the Reserve movements contained in this report be approved.

**CARRIED UNANIMOUSLY**

263     **Analysis of Land & Environment Court Costs - 1st Quarter 2009 to 2010**

.  
File: S02466

To report legal costs in relation to planning matters in the Land & Environment Court for the quarter ended September 2009.

**Resolved:**

(Moved: Councillors Duncombe/Holland)

That the analysis of Land & Environment Court costs for the first quarter ended September 2009 be received and noted.

**CARRIED UNANIMOUSLY**

264     **Investment Report as at 31 October 2009**

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File: S05273

To present to Council investment allocations and returns on investments for October 2009.

**Resolved:**

(Moved: Councillors Duncombe/Holland)

- A. That the summary of investments and performance for October 2009 be received and noted.
- B. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

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

*Against the Resolution:              Councillor Hall*

265     **2009 Financial Assistance Grants to Community Groups**

.  
File: FY00432

To advise Council of applications received from community groups for financial assistance in 2009, and to recommend subsequent funding allocations.

**Resolved:**

(Moved: Councillors Duncombe/McDonald)

That the community and cultural groups, as listed under each category, receive the recommended amount of financial assistance from Council in 2009.

**Application Assessments 2009****1. Category: Small Equipment**

<b>Name of Organisation</b>	<b>Amount Sought \$</b>	<b>Amount Recommended \$</b>
Albert Drive Community Fire Unit	3,140.52	3,141
East Lindfield Community Pre-school Association Inc.	1,554.50	1,000
East Roseville Bowling Club Ltd.	1,968.92	1,969
Easy Care Gardening Inc	1,980	1,980
English at Gordon – Gordon Baptist Church	1,800	1,300
The Eryldene Trust	2,000	1,000
The Gordon Handcraft Association	945	945
Killara Kids Out of School Hours Care	1,595.15	1,000
Killara Probus Club Inc	491.50	492
Killara Scout Group	1,189	1,189
KU Killara Park Preschool	1,000	1,000
KU The Chase Preschool	1,992.30	1,000
Ku-ring-gai Community Workshop "The Shed" Inc	2,000	2,000
Ku-ring-gai Historical Society Inc	2,000	2,000
Ku-ring-gai Little Athletics Centre Inc	2,000	1,000
Ku-ring-gai Youth Development Service Inc	2,000	2,000
Lady Game Community Kindergarten	1,984	1,000
Lindfield Montessori Preschool	1,509.96	1,000
Lorna Hodgkinson Sunshine Home	1,798	1,798
Montessori Excelsior School	1,500	1,000
Noah's Ark Toy Library for Children with Special Needs	1,100	500
North Turrumurra Netball Club Inc	1,014	1,014
Northside Opera Study Group Inc	427	427
Parkinson's NSW Hornsby Ku-ring-gai Support Group	1,000	1,000
SHHH (Self Help for Hard of Hearing People) Australia Inc	1,700	1,700
St Ives Toastmaster Club	350	350
Sydney U3A – Upper North Region	1,200	1,200

**2. Category: Community Development**

<b>Name of Organisation</b>	<b>Amount Sought \$</b>	<b>Amount Recommended \$</b>
Centacare Broken Bay - Boonah Creative Arts Centre	2,081	750
Community Friendship Group "Cooinda"	1,000	1,000
Constant Companion	1,656	1,100
Cromehurst Special School P & C Association	3,950	2,000
Dial -a Mum Inc	1,000	250
Disabled Alternative Road Service	2,000	500
Hornsby Ku-ring-gai & Hills Multiple Birth Association (HKHMBA)	1,220	1,220
Hornsby Ku-ring-gai Stroke Recovery Club	1,000	300
Ku-ring-gai Community Workshop "The Shed" Inc	2,000	2,000
Ku-ring-gai Family Support Program / Ryde Family Support	1,500	1,500
Ku-ring-gai Historical Society Inc	5,000	2,000
Ku-ring-gai Neighbourhood Centre (KNC)	5,000	1,000
Ku-ring-gai Youth Development Service	5,000	3,600
Lorna Hodgkinson Sunshine Home	4,800	1,500
Marian Street Theatre for Young People	5,000	4,500
Parkinson's NSW Hornsby Ku-ring-gai Support Group	2,500	1,000
Probus Club of Warrawee Inc	500	500
Pymble Turramurra Kindergarten	5,000	1,500
RFS Hornsby Ku-ring-gai Catering Brigade	2,329.80	2,330
Single with Children	1,436.50	1,000
Streetwork Inc	3,000	2,500

**3. Category: Arts/Cultural**

<b>Name of Organisation</b>	<b>Amount Sought \$</b>	<b>Amount Recommended \$</b>
Australian Dance Vision Co Ltd	5,000	2,000
The Cathedral Singers Inc	2,250	1,500
The Cavalcade of History and Fashion	11,300	4,500
East Lindfield Community Pre-school Association Inc.	1,440.79	1,000
English at Gordon – Gordon Baptist Church	500	500
The Eryldene Trust	2,500	2,500
The Gordon Handcraft Association	1,845	1,000
Hornsby Ku-ring-gai Domestic Violence Network – Centacare Waitara Family Centre	2,000	2,000
"Ignite the Flame" Ku-ring-gai Combined Churches Festival	4,000	2,000
KU The Chase Preschool	1,421.80	1,000

Name of Organisation	Amount Sought \$	Amount Recommended \$
Lindfield Montessori Preschool	496.08	496
Mirrabooka Singers	1,040	1,040
The Singing Treatts	3,963	1,500
Studio Artes Northside Inc	5,000	1,500

**CARRIED UNANIMOUSLY**

266

**Acceptance of Tender T14/2009 Stormwater Storage Dam at North Turramurra Golf Course**

File: S04758

To report on the results of the public tender for the construction of a stormwater storage dam at North Turramurra Golf Course and to seek Council approval to accept the tender from the preferred tenderer.

**Resolved:**

(Moved: Councillors Duncombe/McDonald)

- A. That Council accept the tender from JK Williams Contracting Pty Ltd for the construction of a dam at North Turramurra Golf Course.
- B. That the tender from the second preferred tenderer, Ford Civil Contracting Pty Ltd be accepted if JK Williams withdraw from the project.
- C. That the execution of all documents relating to the tender be delegated to the Mayor and General Manager.
- D. That the Common Seal be affixed to any necessary documents.

**CARRIED UNANIMOUSLY**

**MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**

267

**Transport & Traffic Policy - On-Street Parking Close to Schools**

File: S02527

**Notice of Motion from Councillor Tony Hall dated 16 November 2009.**



Following increasing intensity for on-street parking by senior students attending high schools, both public and independent, in the Ku-ring-gai local government area, currently considered on a case by case basis,

I move:

"That part 9 (on-street parking) of the Transport and Traffic Policy be amended to review the growing competition for car spaces between residents living in local streets and high school students seeking to park close to their respective schools and that Council seek the views of the Ku-ring-gai Traffic Committee before formulating any amendment to this Policy to address this issue."

**Resolved:**

(Moved: Councillors Hall/Hardwick)

That the above Notice of Motion as printed be adopted.

**CARRIED UNANIMOUSLY**

**GENERAL BUSINESS** (cont)

*Standing Orders were suspended  
to deal with GB.11 & 12 first  
after a Motion moved by Councillors Malicki & McDonald  
was CARRIED UNANIMOUSLY*

268

**Heritage Reference Committee - Notes of Meetings held 17 August & 21 September 2009**

File: S07620

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

**A Carroll**

To advise Council of the notes of the Heritage Reference Committee Meetings held on 17 August and 21 September 2009.

**Resolved:**

(Moved: Councillors Anderson/Hall)

- A. That Council receive and note the Heritage Reference Committee Meeting notes from 17 August 2009 and 21 September 2009.
- B. That Council inform the owners of 10 Grassmere Road, Killara that a grant of \$3,000 will be awarded under the heritage assistance fund as Council cannot

award in full the grant monies as the work undertaken did not fully comply with the specified grant conditions.

- C. That Council continues to pursue opportunities to support the establishment of JJC Bradfield Museum.

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

*Against the Resolution:              Councillor Malicki*

**Council resolved itself into Committee of the Whole  
with the Press and Public included to deal with the following item:**

*For the Committee of Whole:              The Mayor, Councillor I Cross, Councillors  
Holland, Keays, Szatow, Anderson,  
Duncombe, Hall & McDonald*

*Against the Committee of Whole:      Councillors Malicki & Hardwick*

269

### **Planning Committee Meeting - Minutes of 9 November 2009**

File: S07629

#### **The following members of the public addressed Council:**

**J Hocking  
K Cowley  
R Binding  
S Evans  
G Tabuteau  
K Callinan  
N Cronin  
C Berlioz  
A Carroll**

To present to Council for adoption the minutes of the Planning Committee meeting held on 9 November 2009.

#### **Resolved:**

(Moved: Councillors Anderson/Duncombe)

- C. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

S5              261 Mona Vale Road, St Ives being Lot 31 DP 719052.

**CARRIED UNANIMOUSLY**

- D. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

S6            176 Mona Vale Road, St Ives being Lot 103 DP 627012 and Lot 105 DP 629388.

**CARRIED UNANIMOUSLY**

- E. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

T18            12 William Street, Turramurra being Lot 1 DP 519532.

*For the Resolution:            The Mayor, Councillor I Cross, Councillors  
Anderson, Duncombe, Hall & Holland*

*Against the Resolution:       Councillors Malicki, Keays, Szatow & McDonald*

- G. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

T20    1A and 3 Kissing Point Road, Turramurra being Lot 2 DP 500077, Lot 2 DP 502388, Lot 2 DP 500761, Lot A DP 391538 and Lot B DP 435272.

*For the Resolution:            The Mayor, Councillor I Cross, Councillors  
Holland, Anderson, Duncombe & Hall*

*Against the Resolution:       Councillors Malicki, Keays, Szatow & McDonald*

- H. 1. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

T21B    3 Stonex Lane, Turramurra being Lot 2 DP 550866.

2. That following reclassification and subdivision, Council resolve to undertake the necessary action to reclassify back to Community land status that part of the site not required as Operational land.

*For the Resolution:            The Mayor, Councillor I Cross, Councillors  
Holland, Anderson, Duncombe & Hall*

*Against the Resolution:       Councillors Malicki, Keays, Szatow & McDonald*

- N. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

G45            2 Moree Street, Gordon being Lot 4 DP 3965.

**CARRIED UNANIMOUSLY**

- O. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

G46        4 Moree Street, Gordon being Lot 5 DP 3965.

**CARRIED UNANIMOUSLY**

- Q. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

G53        753 Pacific Highway, Gordon being Lot 1 DP 213736.

*For the Resolution:*        *The Mayor, Councillor I Cross, Councillors  
Holland, Keays, Szatow, Anderson, Duncombe,  
Hall & McDonald*

*Against the Resolution:*        *Councillor Malicki*

- R. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

L55        9 Havilah Lane, Lindfield being Lot 21 DP 713207.

*For the Resolution:*        *Councillors Holland, Anderson, Duncombe, Malicki  
& Hall*

*Against the Resolution:*        *The Mayor, Councillor I Cross, Councillors, Keays,  
Szatow & McDonald*

- S. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

L56        3 Kochia Lane, Lindfield being Lot 12 DP 225925.

*For the Resolution:*        *The Mayor, Councillor I Cross, Councillors  
Holland, Anderson, Duncombe & Hall*

*Against the Resolution:*        *Councillors Malicki, Keays, Szatow & McDonald*

- T. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

L57        8-10 Tryon Road, Lindfield being Lots 2 and 3 DP 219628 and Lot 5 DP  
219146.

*For the Resolution:*                      *The Mayor, Councillor I Cross, Councillors Holland, Keays, Szatow, Anderson & Duncombe, Hall*

*Against the Resolution:*              *Councillors Malicki & McDonald*

- U. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

L62            1/12-18 Tryon Road, Lindfield being Lot 1 SP 37466.

**CARRIED UNANIMOUSLY**

- V. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

L64            5 Kochia Lane, Lindfield being Lot 31 DP 804447.

*For the Resolution:*                      *The Mayor, Councillor I Cross, Councillors Holland, Anderson, Duncombe & Hall*

*Against the Resolution:*              *Councillors Malicki, Keays, Szatow & McDonald*

- Y. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

P35            Post Office Lane, Pymble being Lot 2 DP 582963.

*For the Resolution:*                      *Councillors Holland, Keays, Anderson, Duncombe & Hall*

*Against the Resolution:*              *The Mayor, Councillor I Cross, Councillors Malicki, Szatow & McDonald*

**Councillor Malicki withdrew**

- DD. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

R65            1 Larkin Lane, Roseville being Lot 1 DP 502277, Lot 1 DP 215188, Lot 1 DP 500309, Lot 2 DP 511183, Lot 1 DP 501603, Lot 2 DP 511182, Lot 1 DP 215231, Lot 2 DP 505005, Lot 2 DP 507593, Lot 2 DP 504082, Lot 1 DP 500045, Lot 1 DP 505371, Lot 1 DP 507809.

*For the Resolution:*                      *The Mayor, Councillor I Cross, Councillors Anderson, Duncombe & Hall*

*Against the Resolution:*              *Councillors Holland, Keays, Szatow & McDonald*

- EE. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

R66 94A Pacific Highway, Roseville being Lot 22 DP 595126.

*For the Resolution:* The Mayor, Councillor I Cross, Councillors  
Holland, Anderson, Duncombe, Hall & McDonald

*Against the Resolution:* Councillors Keays & Szatow

- FF. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

R67 80A Pacific Highway, Roseville being Lot 11 DP 861578.

**CARRIED UNANIMOUSLY**

**Councillor Malicki returned**

**Councillor Hall withdrew**

- GG. 1. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

R68 62 Pacific Highway, Roseville being Lot 2 DP 202148.

2. That following reclassification and subdivision, Council resolve to undertake the necessary action to reclassify back to Community land status everything other than the handle part of the site that part of the site that is not required as Operational land.

*For the Resolution:* The Mayor, Councillor I Cross, Councillors  
Holland, Malicki, Anderson & Duncombe

*Against the Resolution:* Councillors Keays, Szatow & McDonald

**Councillor Hall returned**

- MM. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

R69 2 Lord Street, Roseville being Lot 4 DP 225030, Lot 1 DP 556917, Lot 3 DP 556955, Lot 5 DP 559096, Lot 7 DP 561031, Lot 9 DP 563301, Lot 11 DP 575457.

*For the Resolution:* The Mayor, Councillor I Cross, Councillors  
Holland, Anderson, Duncombe & Hall

*Against the Resolution:* Councillors Malicki, Keays, Szatow & McDonald

- NN. That Council request the Ku-ring-gai Planning Panel to prepare a new draft Local Environmental Plan as an amending instrument to *Ku-ring-gai Local Environmental Plan (Town Centres) 2008* providing that the Council sites nominated in the preceding Parts A to MM have operational land status.

*For the Resolution:*                      *The Mayor, Councillor I Cross, Councillors Holland, Keays, Szatow, Anderson, Duncombe, Hall & McDonald*

*Against the Resolution:*              *Councillor Malicki*

- OO. That Council request that the Ku-ring-gai Planning Panel exhibition process be in accordance with the NSW Department of Planning's LEP Practice Note (PN09-003) 12 June 2009 and any relevant parts of LEPs and Council owned Land Best Practice Guidelines (DUAP 1997).

*For the Resolution:*                      *The Mayor, Councillor I Cross, Councillors Holland, Keays, Szatow, Anderson, Duncombe, Hall & McDonald*

*Against the Resolution:*              *Councillor Malicki*

- PP. That Council undertake a public hearing into the proposed reclassification of the lands identified in recommendations A to MM inclusive. The public hearing to be held at an appropriate time, after the public exhibition of the draft Local Environmental Plan prepared by the Ku-ring-gai Planning Panel.

*For the Resolution:*                      *The Mayor, Councillor I Cross, Councillors Holland, Keays, Szatow, Anderson, Duncombe, Hall & McDonald*

*Against the Resolution:*              *Councillor Malicki*

- QQ. That when received, the Chairperson's report on the public hearing be the subject of a further report for Council's consideration.

*For the Resolution:*                      *The Mayor, Councillor I Cross, Councillors Holland, Keays, Szatow, Anderson, Duncombe, Hall & McDonald*

*Against the Resolution:*              *Councillor Malicki*

That the Mayor and Deputy Mayor place an open letter in the North Shore Times and Council's website explaining Council's decision in relation to the reasons for the decision to reclassify community land.

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

*Against the Resolution:*              *Councillors Malicki & Hall*

That following the reclassification stage of the Local Environment Plan process, Council initiates an independently facilitated critical thinking, visioning workshop between local community members, development industry representatives, and other local stakeholder representatives associated with each specific town centre to identify relevant concerns, options and opportunities consistent with the adopted Local Environmental Plan, Development Control Plan, Ku-ring-gai Council Community Strategic Plan 2030, Draft Section 94 Plan, Ku-ring-gai Council Climate Change Policy and finally the draft Ku-ring-gai Council Long Term Financial Plan (these being the five key long term guiding strategic instruments that will be used by Council). To assist the above mentioned process, Council should create a very general outline of how these planning instruments are inter-related.

This would then be followed by a site specific, stakeholder inclusive process in which any identified options and opportunities would be presented, discussed and recorded.

These two open and inclusive processes would then be used by Council to deliberate on the suitability of proposals as part of any future use of Operational Land in context of Town Centre Development.

*For the Resolution:*                      *The Mayor, Councillor I Cross, Councillors Holland, Malicki, Keays, Szatow, Anderson, Duncombe & McDonald*

*Against the Resolution:*              *Councillor Hall*

*The following parts of the Motion when put to the vote were LOST. The following parts of the Motion are:*

- A.    1.    *That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*
- S1    (Part) 11-21 Cowan Road, St Ives being Lot 2 DP 822373 and Lot 1 DP 420106.*
- S1    (Part) 11-21 Cowan Road St Ives being Lot A DP 321567, Lot 1 DP 504794, Lots A and B DP 336206.*
2.    *That following reclassification and subdivision, Council resolve to undertake the necessary action to reclassify back to Community land status that part of the site not required as Operational land.*



- B. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*S3 208-210 Mona Vale Road St Ives being Lots 11 and 12 DP 29167.*

- F. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*T19 5 Ray Street, Turramurra being Lot 2 DP 221290.*

- I. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*P 30 2 Alma Street, Pymble being Lot A DP 302332.*

- J. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*G43 818 Pacific Highway and 7 Dumaresq Street, Gordon being Lot 2 DP 786550.*

- K. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*G44A 9 Dumaresq Street, Gordon being Lot A DP 355615.*

- L. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*G44B 15 Dumaresq Street, Gordon being Lot D DP 386283.*

- M. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*G44C 17 Dumaresq Street, Gordon being Lot C DP 386283.*

- P. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*G47 1 Wade Lane, Gordon being Old System Land (part of Land in Conveyance No. 483 Book 2027).*

- W. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*P31 65 Grandview Street, Pymble being Lot 23 DP 791208.*

- X. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*P34 1032-1052 Pacific Highway, Pymble being Part Lot 27 DP 656246,  
Lot A DP 362538 and Lots 1, 2 and 3 DP 615420.*

- Z. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*L60A 259 Pacific Highway, Lindfield being Lot 2 DP 212617.*

- AA. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*L60B 259 Pacific Highway, Lindfield being Lot 3 DP 212617.*

- BB. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*L60C 259 Pacific Highway, Lindfield being Lot 1 DP 212617.*

- CC. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*L61 265-271 Pacific Highway, Lindfield being Lot 8 DP 660564 and Part  
Lot 8 The Clanville Estate (Old System).*

- HH. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*T16 2-8 Turramurra Avenue, Turramurra being Lot 2 DP 840070.*

- II. That Council reconfirm the operational land status of the following site in a new Local Environmental Plan:*

*T17 1-7 Gilroy Road, Turramurra being Lot 1 DP 840070.*

- JJ. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*P27 1186-1188 Pacific Highway, Pymble being Lot 1 DP 86583.*

*KK. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*P33 1192 Pacific Highway, Pymble being Lot 8 DP 30236.*

*LL. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*

*G42 799 Pacific Highway, Gordon being Lot 1 SP 49925.*

**Councillor McDonald withdrew**

*Standing Orders were suspended during Debate on GB.12  
to deal with GB.14 & GB.13  
after a Motion moved by Councillors Malicki & Keays*

*For the Motion: The Mayor, Councillor I Cross, Councillors  
Holland, Malicki, Keays, Szatow, Anderson &  
Duncombe*

*Against the Motion: Councillor Hall*

**Councillor McDonald returned**

270 **Annual Report 2008 to 2009**

File: FY00019

To present to Council the Statutory Annual Report for 2008/2009 in accordance with Section 428 of the Local Government Act 1993.

**Resolved:**

(Moved: Councillors Malicki/McDonald)

- A. That the Annual Report for the period, 1 July 2008 to 30 June 2009, be received and noted with any typographical errors and omissions be corrected.
- B. That a copy of the Annual Report be sent to the Minister for Local Government.
- C. That Council extends its congratulations to staff for an excellent report.

**Councillor Hardwick departed during the debate**

**CARRIED UNANIMOUSLY**

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

*(Moved: Councillors Hall/Hardwick)*

*That receipt of the Annual Report be deferred until all amendments have been made to the document.*

**271 12 Woonona Avenue, Wahroonga - Embellishment Requirements**

File: S07257

To advise Council on the restoration embellishment requirements for the recently acquired residential development site at 12 Woonona Avenue, Wahroonga.

**Resolved:**

(Moved: Councillors Anderson/Duncombe)

- A. That Council utilise Section 94 Reserves up to \$100,000 to undertake restorations works only.
- B. That Council include the future embellishment costs associated with the development of the new local park into the Long Term Financial Plan.
- C. In relation to the offer of \$200,000 from Mr John Fuller to assist with funding works identified in this report, that the General Manager or his delegate enter into discussions with Mr Fuller to confirm that the offer is unencumbered
- D. That a further report be provided to enable further consideration by the Council.

*For the Resolution:                      The Mayor, Councillor I Cross, Councillors  
Holland, Keays, Szatow, Anderson, Duncombe,  
Hall & McDonald*

*Against the Resolution:              Councillor Malicki*

**272 Use of Council Email Facilities - Councillor Tony Hall & Code of Conduct**

File: S06948

To report to Council the Conduct Review Committee's findings and recommendations in relation to a complaint lodged by a member of the public concerning the use of the Council email facility by Councillor Tony Hall.

**Resolved:**

(Moved: Councillors Malicki/Duncombe)

- A. That Councillor Tony Hall make an apology to a meeting of the Council for his conduct in sending numerous email messages of a political nature at the time of the Council by-election in May 2009, such messages being sent from his Council email facility under his status as a Councillor in breach of the Council Code of Conduct and Council policy on Payment of Expenses and Provision of Facilities to Councillors.
- B. That Council formally censure Councillor Hall for his misbehaviour in using the Council email facility for political purposes in contravention of the Council Code of Conduct and Policy on Payment of Expenses and Provision of Facilities to Councillors.

That Council notes that Councillor Hall has previously been censured for misbehaviour and has on at least one occasion been expelled from a meeting of Council.

That on the basis that Council believes that grounds may exist that warrant Councillor Hall's suspension, that Council requests the Director-General of the Department of Local Government to initiate the process for the suspension of Councillor Hall from civic office, and the General Manager provide a copy of this resolution to the Director-General for that purpose.

- C. That Ku-ring-gai Council arrange a further Code of Conduct training workshop within three months of this recommendation being accepted by the Council at a time and place convenient to all Councillors, and should any Councillor fail to attend, a private session be arranged for that Councillor.
- D. That further, Ku-ring-gai Council consider including in its Councillor training policy a requirement that Code of Conduct training be provided to all Councillors at the commencement of the Council term and at least on one other occasion during the term.

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

*Against the Resolution: Councillors Szatow & Hall*

273

**Alleged Overbearing Conduct - Councillor Tony Hall & Code of Conduct**

File: S06948

To report to Council the findings and recommendations of the Code of Conduct Review Committee in relation to a complaint lodged against Councillor Tony Hall.

**Resolved:**

(Moved: Councillors Malicki/Duncombe)

- A. That Councillor Tony Hall provide an apology in person and in writing to the complainant for his overbearing conduct in a telephone conversation on 18 June 2009 and agree to professional counselling to improve his conduct and behaviour toward fellow Council officials.
- B. That Council formally censure Councillor Hall for his misbehaviour in overbearing conduct towards a staff member in a telephone conversation in contravention of the Council Code of Conduct.
- C. That Council notes that Councillor Hall has previously been censured for misbehaviour and has on at least one occasion been expelled from a meeting of Council.
- D. That on the basis that Council believes that grounds may exist that warrant Councillor Hall's suspension, that Council requests the Director-General of the Department of Local Government to initiate the process for the suspension of Councillor Hall from civic office, and the General Manager provide a copy of this resolution to the Director-General for that purpose.

*For the Resolution:                      The Mayor, Councillor I Cross, Councillors  
Holland, Malicki, Keays, Duncombe & McDonald*

*Against the Resolution:              Councillors Szatow, Anderson & Hall*

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

*(Moved: Councillors Anderson/Keays)*

- A. *That Councillor Tony Hall provide an apology in person and in writing to the complainant for his overbearing conduct in a telephone conversation on 18 June 2009 and agree to professional counselling to improve his conduct and behaviour toward fellow Council officials.*
- B. *That Council formally censure Councillor Hall for his misbehaviour in overbearing conduct towards a staff member in a telephone conversation in contravention of the Council Code of Conduct.*
- C. *That Council notes that Councillor Hall has previously been censured for misbehaviour and has on at least one occasion been expelled from a meeting of Council.*

274 **Code of Meeting Practice**

File: S02211

To consider a revised draft Code of Meeting Practice.

**Resolved:**

(Moved: Councillors Malicki/Holland)

That the revised Code of Meeting Practice be endorsed for placing on public exhibition with the deletion of:

- Part 5.2.3.
- Parts 3.16.2 to 3.16.5 and replaced with the wording from the current version of the Code.

**CARRIED UNANIMOUSLY**

275 **Management Plan 2009 to 2012 - 1st Quarter Review**

File: FY00019

To report to Council the progress over the period July to September 2009 against the 2009 to 2012 Management Plan.

**Resolved:**

(Moved: Councillors Malicki/McDonald)

That the report on the progress of the Key Performance Indicators contained in the 2009 to 2012 Management Plan for the 1st Quarter of the Plan be received and noted.

*For the Resolution:                      The Mayor, Councillor I Cross, Councillors  
Holland, Malicki, Keays, Szatow, Anderson,  
Duncombe & McDonald*

*Against the Resolution:              Councillor Hall*

**QUESTIONS WITHOUT NOTICE****276 "Under The Canopy" - Alleged Misstatement**

File: S02646

Question Without Notice from Councillor T Hall

I refer the General Manager to page 150 of the Council's Centenary History entitled "Under the Canopy" launched by the former Mayor, Councillor Malicki.

Would he confirm that Councillor Malicki is shown as being returned as a Councillor at the 1999 local Council elections and is this correct?

If it is not correct, what was the state of that Council elections relating to the returned Councillors in 1999 please?

**Answer by the General Manager**

I will have to review page 150 of the subject publication and get a reply to Councillors.

**277 "Under the Canopy"**

File: S02646

Question Without Notice from Councillor T Hall

Would the General Manager investigate why footnotes (37 and 38) in Chapter 5 of "Under the Canopy" were retained in the book when the reference by those footnotes was apparently removed prior to publication?

Are you aware that Councillor Malicki has placed the blame on me for its deletion? What actually occurred please?

**Answer by the General Manager**

As per the first question, I will have to investigate and report back.

**278 Miscarriage of Heritage Committee Minutes of 21 August 2007**

File: S07620

Question Without Notice from Councillor C Szatow

Would the General Manager investigate the circumstances surrounding the miscarriage of the Heritage Committee Minutes of 21 August 2007 which led to the demolition of the property at 16 Stanhope Road, Killara and which enabled the new owner to build?



**Answer by the General Manager**

As Mr Fabbro said earlier, we will include that as part of the report to the next meeting.

**The Mayor, Councillor I Cross vacated the Chair  
and the Deputy Mayor, Councillor J Anderson assumed the Chair**

**Council resolved itself into Closed Meeting  
with the Press and Public Excluded to deal with the following item  
after a Motion moved by Councillors Duncombe & Holland**

*For the Closure:*                      *Councillors Holland, Malicki, Keays, Szatow,  
Anderson, Duncombe & McDonald*

*Against the Closure:*              *Councillor Hall*

279

**Debt Recovery Action**

File: S07227

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 referred to in section 10(A) 2(c) of the Act, and should be dealt with in a part of the meeting closed to the media and 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 contains legal information in relation to the recovery of a debt owed to Council

It is not in the public interest to release details of the legal advice as it would prejudice Council's position in potential court proceedings.

Report by Director Corporate dated 11 November 2009.

**The Mayor, Councillor I Cross returned  
& assumed the Chair**

**Motion:**

(Moved: Councillors Holland/Szatow)

That Council not pursue a course of action in relation to the recovery of debts claimed from Mr Nicholas Ebbeck.

*For the Resolution:*                      *The Mayor, Councillor I Cross, Councillors  
Holland, Szatow & Duncombe*

*Against the Resolution:*              *Councillors Malicki, Keays, Hall & McDonald*

***The Mayor did not use his casting vote  
and the Motion lapsed***

### **SUBSTANTIVE MOTION**

[Moved: Councillors Malicki/McDonald]

That Council lodge a proof of debt with the Trustee for the recovery of debts claimed from Mr Nicholas Ebbeck.

*For the Resolution:*                      *Councillors Malicki, Keays, Hall & McDonald*

*Against the Resolution:*              *The Mayor, Councillor I Cross, Councillors  
Holland, Szatow & Duncombe*

***The Mayor did not use his casting vote  
and the Substantive Motion lapsed***

Reverted to Open Council

The General Manager adverted to the consideration of the matters referred to in the Minute numbered 279, and to the motions contained in such Minute.

*The Meeting closed at 1.05am*

The Minutes of the Ordinary Meeting of Council held on 24 November 2009 (Pages 1 - 26) were confirmed as a full and accurate record of proceedings on 1 December 2009.

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General Manager

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Mayor / Chairperson