

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 8 DECEMBER 2009

Present: The Mayor, Councillor I Cross (Chairperson) (Wahroonga Ward)
Councillors S Holland & E Malicki (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)
Director Development & Regulation (Michael Miocic)
Director Operations (Greg Piconi)
Director Strategy & Environment (Andrew Watson)
Manager Corporate Planning & Sustainability (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

293 APOLOGIES

File: S02194

Councillor Cheryl Szatow tendered an apology for non-attendance [prior commitment] and requested leave of absence.

Resolved:

(Moved: Councillors Keays/McDonald)

That the apology by Councillor 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.

The Mayor, Councillor Ian Cross declared a pecuniary interest to Item GB.18 - Remuneration of Joint Regional Planning Panel Members (Member of Joint Regional Planning Panel).

Councillor Elise Keays declared a pecuniary interest to Item GB.18 - Remuneration of Joint Regional Planning Panel Members (Member of Joint Regional Planning Panel).

Councillor Elaine Malicki declared a pecuniary interest to Item GB.18 - Remuneration of Joint Regional Planning Panel Members (Member of Joint Regional Planning Panel).

Councillor Jennifer Anderson perceived a conflict of interest to Item C.1 - Debt Recovery Action (relates to concerns regarding funding during the 2008 Council Elections).

294

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499

Resolved:

(Moved: Councillors Malicki/McDonald)

That in accordance with the provisions of Section 10 of the Local Government Act 1993, all officers' reports and the North Turrumurra Recreation Area section of Attachment D: Major Projects Expenditure Funding - GB.15 - 20 Year Long Term Financial Plan be released to the press and public, with the exception of:

C.1 Debt Recovery Action

CARRIED UNANIMOUSLY

DOCUMENTS CIRCULATED TO COUNCILLORS

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

Late Items: **Minutes of Ordinary Meeting of Council**
Meeting held 1 December 2009, Minutes numbered 280 to 292

Refer GB.16 - Investment Report as at 30 November 2009 -
Report by Manager Finance & Director Corporate dated 1
December 2009 with attachment.

**Refer GB.17 - Exhibition & Referral of Draft Ku-ring-gai
Contributions Plan 2009 -** Report by Director Strategy &
Environment dated 27 November 2009 with attachments.

**Refer GB.18 - Remuneration of Joint Regional Planning Panel
Members -** Report by Director Corporate dated 4 December 2009.

**Memorandums: Refer GB.3 - Consideration of Draft Ku-ring-gai Town Centres
Parking Management Plan Final Report -** Memorandum by
Manager Urban & Heritage Planning dated 1 December with A3
coloured attachments relating to the attachments to the report.

**Refer GB.6 - Acceptance of Tender T13/2009 North Turramurra
Golf Course Sustainable Water Supply Scheme -** Confidential
Memorandum by Director Strategy & Environment dated
2 December 2009 to Councillors and Directors ONLY with regard to
the Report's Confidential Attachment.

Refer GB.8 - Water Street Park - Memorandum by Director
Strategy & Environment dated 1 December 2009 re A3 colour
copies of Attachment 1 to the report.

Refer GB.15 - 20 Year Long Term Financial Plan -
Memorandum by Director Corporate dated 8 December 2009 to
Councillors and Directors ONLY with regard to deleting Part G of
the Officer's recommendation in the report.

Refer GB.16 - Investment Report as at 30 November 2009 -
Memorandum by Director Corporate dated 4 December 2009
regarding the report and attachment.

**Refer GB.17 - Exhibition & Referral of Draft Ku-ring-gai
Contributions Plan 2009 -** Memorandum by Manager Urban and
Heritage Planning dated 8 December 2009 to Councillors and
Directors ONLY advising that the Works Program map for
Wahroonga Local Centre was inadvertently omitted from the
attachments to the report.

CONFIRMATION OF MINUTES

295 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 1 December 2009
Minutes numbered 280 to 292

Resolved:

(Moved: Councillors Malicki/Hall)

That Minutes numbered 280 to 292 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting with the exception of Minute No 287.

CARRIED UNANIMOUSLY

296

Addition of Lands into Lane Cove National Park

File: S02464

Vide Minute No 287

For Council to consider an approach from the NSW Department of Environment, Climate Change and Water regarding the transfer of Council land and to revoke care, control and management of four (4) parcels of Crown Land R89885, for the purpose of amalgamation into Lane Cove National Park.

Resolved:

(Moved: Councillors Malicki/Holland)

That confirmation of the accuracy of Minute 287 - Part A(ii) be deferred to allow the tape to be checked.

CARRIED UNANIMOUSLY

PETITIONS

297

Proposed Traffic Changes to McRae Place, North Turramurra - (Thirty-Nine [39] Signatures)

File: TM10

"We, the undersigned McRae Place residents are upset about proposed changes to the entrance to our cul-de-sac. It is our understanding that right turns are to be prohibited from our street into Burns Road and also from Burns Road into our street.

The changes would be detrimental to traffic leaving and entering McRae Place - where we live. Residents would be stopped from turning right from McRae Place into Burns Road. They would also be stopped from turning right from Burns Road into McRae Place. A dedicated right hand turn lane is presently installed for this purpose.

The suggestion of the alternate route Bobbin Head Road/Nambucca Street/The Chase Road necessitates a right hand turn from The Chase Road onto Burns Road, which is, for significant periods of the day, well nigh impossible. This is a reasonable alternative. That is to say, your proposal would effectively block the residents of McRae Place from accessing the street in which they live when approaching from the west along Burns Road, for significant periods of the day, as well as necessitate longer routes to simply travel west along Burns Road from McRae Place. This is a downgrade of the McRae Place and Burns Road intersection - the only intersection that residents of this road can use to access the street in which they live as it is a cul-de-sac.

We request that the proposed changes to the McRae Place and Burns Road intersection not be implemented.

We are appealing to the RTA to make these changes to the end of our street."

Resolved:

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

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 26 November 2009
Minutes numbered KTC13 to KTC16

298

General Matter Items under Delegated Authority

File: S02738

Vide Minute No KTC13

Advice on matters considered under Delegated Authority.

Resolved:

(Moved: Councillors Keays/Malicki)

That the information regarding traffic facilities approved during July 2009 to November 2009 be noted.

CARRIED UNANIMOUSLY

299 **Meeting Dates 2010**

File: S02110

Vide Minute No KTC14

To determine Ku-ring-gai Traffic Committee meeting dates for 2010.

Resolved:

(Moved: Councillors Keays/Malicki)

That the Ku-ring-gai Traffic Committee meetings in 2010 be scheduled for the dates shown below:

18 February
25 March
22 April
20 May
24 June
22 July
26 August
23 September
21 October
25 November

CARRIED UNANIMOUSLY

300 **Pentecost Avenue, Pymble**

File: TM7

Ward: St Ives

Electorate: Davidson

Vide Minute No KTC15

To review traffic conditions in Pentecost Avenue.

Resolved:

(Moved: Councillors Keays/Malicki)

- A. That Council note the reductions in traffic volumes and speeds in Pentecost Avenue since the 1990's and the more recent data collected.
- B. That future traffic management works in Pentecost Avenue be undertaken in accordance with Council's priority ranking system, although funding be also sought from external sources.

- C. That no action be taken regarding the request to close Pentecost Avenue to traffic.
- D. That traffic conditions in Pentecost Avenue continue to be monitored.
- E. That Police be requested to advise of what enforcement has been undertaken in Pentecost Avenue in 2009 and requested to continue to enforce the speed limit in the street.
- F. That concerned residents of Pentecost Avenue, who had contacted Council in 2008, be informed of Council's review and decision.

CARRIED UNANIMOUSLY

301 **Lancaster Avenue, St Ives**

File: TM9

Ward: St Ives

Electorate: Davidson

Vide Minute No KTC16

The following member of the public addressed Council:

M Gooley

To consider 2 hour parking restrictions in Lancaster Avenue.

Resolved:

(Moved: Councillors Malicki/Keays)

- A. That *2P 9.00am - 3.00pm School Days* parking restrictions be introduced into Lancaster Avenue, in accordance with attached Sketch Plan No: Lancaster/TDA/82/09.
- B. That Rangers be requested to enforce the parking restrictions in Lancaster Avenue.
- C. That directly affected residents of Lancaster Avenue and Masada College be informed of Council's decision.

CARRIED UNANIMOUSLY

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

(Moved: Councillors Hall/Hardwick)

That consideration of the matter stand deferred pending the outcome of the school related policy changes proposed by Council and advice from the KTC.

302 **General Discussion Item No 2 - Creation of Traffic Lights at corner of Richmond Avenue South and Mona Vale Road, St Ives**

File: S02110

The Representative of the Member for Davidson asked the Committee about what improvements are proposed on Mona Vale Road at Richmond Avenue. The Representative of the Roads and Traffic Authority informed the Committee that as Mona Vale Road is under the control of the Authority, any concerns regarding this intersection should be directed to the Roads and Traffic Authority.

Resolved:

(Moved: Councillors Hall/Hardwick)

That the Council request the RTA to consider reversing the traffic in Richmond Avenue to create traffic lights at the corner of Richmond Avenue South and Mona Vale Road.

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

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

GENERAL BUSINESS

303 **Consideration of Draft Ku-ring-gai Town Centres Parking Management Plan Final Report**

File: S06051

To have Council consider the draft Ku-ring-gai Town Centres Parking Management Plan for formal public exhibition.

Resolved:

(Moved: Councillors Duncombe/McDonald)

- A. That the draft Ku-ring-gai Town Centres Parking Management Plan be placed on formal public exhibition for a minimum of 28 days and to coincide with the exhibition of the Public Domain Plan.
- B. That a report be brought back to Council at the conclusion of the exhibition period.

CARRIED UNANIMOUSLY

304 **Draft Sports Facilities Plan of Management**

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File: S06604

To place the draft Sports Facilities Plan of Management on public exhibition in accordance with the requirements of the Local Government Act 1993.

Resolved:

(Moved: Councillors Duncombe/Holland)

- A. That the draft *Sports Facilities Plan of Management* be exhibited during December 2009 and January 2010 with a further 14 days for public comment, in accordance with the requirements of the *Local Government Act 1993*.
- B. That the exhibition period follow the process outlined in the Consultation section of this report.
- C. That Council give notice of its intention to determine a purchase price of \$0.60 per page for the *Sports Facilities Plan of Management* via advertisements in the North Shore Times.
- D. That a further report be presented to Council in early 2010 following the public consultation process, incorporating comments received during the public exhibition period.

CARRIED UNANIMOUSLY

305 **Renewal of Licence to Rotary Clubs of Turramurra & Ku-ring-gai to Conduct Markets in Wade Lane Car Park, Gordon**

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File: S02618

A request has been received from Rotary Club of Turramurra Incorporated and Rotary Club of Ku-ring-gai Incorporated for the renewal of licence for the continued occupancy of the mid level of the Wade Lane Car Park.

Resolved:

(Moved: Councillors Duncombe/Malicki)

- A. That Council grant the renewal of a 5 year licence to the Turramurra Rotary Club Incorporated and the Ku-ring-gai Rotary Club Incorporated.
- B. That Council authorise the issue of a Public Notice (as prescribed by section 47A of the *Local Government Act 1993*).

- C. That Council endorse the licence fee as established in Condition 8 Development Application 4348/94, being the fee equivalent to the use of Small Halls [formerly Category B Halls] for sales, exhibitions, conferences by community groups and adjusted annually in accordance with Council's fees and charges.
- D. That Council authorise the Mayor and General Manager to sign licence documentation.
- E. That Council authorise the Common Seal of Council to be affixed to licence documentation.

CARRIED UNANIMOUSLY

306

**Acceptance of Tender T13/2009 North Turramurra Golf Course
Sustainable Water Supply Scheme**

File: S05260

To report on the results of the public tender for the construction of a water recycling and leachate treatment system at North Turramurra Golf Course and to seek Council's approval to accept the preferred tender.

Resolved:

(Moved: Councillors Duncombe/Holland)

- A. That Council accept the tender from Henry and Hymas, subject to clarification of Point 1 in the Executive Summary of the Tender Assessment Report, for the design, construction and operation of a water recycling and leachate treatment system and associated infrastructure at North Turramurra Golf Course.
- B. That the execution of all documents relating to the tender be delegated to the Mayor and General Manager.
- C. That the General Manager or his delegate continue formal discussions with the Girl Guides Australia to determine the correct approach to obtain an easement over a portion of Lot 324, DP 752031 and that a further report be submitted to Council detailing the negotiations.

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

Against the Resolution: Councillor Malicki

307 **Annual Tenders for Stabilised Pavements**

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File: S07827

To advise Council of the tenders received for the road stabilisation works for Council's roads for 2009/10 and 2010/11 road works program.

Resolved:

(Moved: Councillors Duncombe/Keays)

- A. That the tender rates submitted by Stabilised Pavements of Australia Pty Ltd for pavement rehabilitation for 2009/2011 be accepted.
- B. That the tender rates submitted by Downer Edi Works be accepted as an alternative if Stabilised Pavements of Australia Pty Ltd are not able to comply with Council's program.
- C. That the tenderers be advised of Council's decision.
- D. That authority be given to the Mayor and General Manager to affix the Common Seal of Council to the instrument for the Contract for the Pavement Rehabilitation by Stabilisation and associated specifications.

CARRIED UNANIMOUSLY

308 **Open Space Reference Committee - Meeting held 2 November 2009**

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File: S07618

To advise Council of the notes from the Open Space Reference Committee meeting held on 2 November 2009.

Resolved:

(Moved: Councillors Duncombe/Keays)

That the notes of the Open Space Reference Committee meeting held on 2 November 2009 be received and noted.

CARRIED UNANIMOUSLY

309 **6 Greengate Lane & 1 to 7 Bruce Avenue, Killara - Proposed Extinguishment of Drainage Easement Benefitting Council over Lot 41 DP786430 & Lot 3 DP772155 - Application on behalf of Owners**

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File: DA0514/05

To consider granting approval to extinguish a drainage easement which benefits Council over Lot 41 DP786430 and Lot 3 DP772155 (now both part of consolidated Lot 1 DP1122666 - 1 to 7 Bruce Avenue and 6 Greengate Lane).

Resolved:

(Moved: Councillors Duncombe/Holland)

- A. That Council approve the extinguishment of the existing drainage easement over Lot 1 DP1122666, as outlined in this report.
- B. That Council write to the Applicant to advise the terms and conditions for the extinguishment of the easement.
- C. That Council authorise the Mayor and General Manager to sign the documentation associated with the extinguishment of the easement.
- D. That Council authorise the affixing of the Common Seal to the documentation associated with the extinguishment of the easement.

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

Against the Resolution: Councillor Keays

310 **Draft Compliance Policy**

File: S07151

To provide Council with a draft Compliance Policy for public exhibition.

Resolved:

(Moved: Councillors Duncombe/Holland)

That Council place the draft Compliance Policy on public exhibition for a period of 28 days, commencing on 2 February 2010, and after the conclusion of the exhibition period, a report comes back to Council for adoption and implementation of the policy.

CARRIED UNANIMOUSLY

311 **Draft Updated Local Approvals Policy**

File: S07151

To provide Council with a draft updated Local Approvals Policy that sets the framework for criteria required to be considered for all approvals under Section 68 of the Local Government Act and other miscellaneous local activities.

Resolved:

(Moved: Councillors Duncombe/Holland)

That Council place the draft Ku-ring-gai Local Approvals Policy on public exhibition for a period of 28 days, commencing 1 February 2010, and after the conclusion of the exhibition period, a report comes back to Council for adoption of the policy.

CARRIED UNANIMOUSLY

311A **20 Year Long Term Financial Plan**

File: FY00260/4

To present to Council the 20 Year Financial Plan 2011 to 2030 incorporating financial planning, capital works funding, borrowing strategies and depreciation funding strategies.

Resolved:

(Moved: Councillors Duncombe/McDonald)

- A. That the principles and framework of the 20 year LTFP as outlined in this report be adopted.
- B. That Council's 2010/2011 budget includes the following:
1. Reductions in debt servicing costs are restricted to the Infrastructure and Facilities reserve and fully expended on Capital Works. This amounts to \$2.3M.
 2. An amount of \$290K transferred to the Infrastructure and Facilities Reserve, based on a Council policy to transfer funds to a former building reserve.
 3. An amount of \$510K transferred to the Infrastructure and Facilities Reserve for Development Application Infrastructure Restoration Fees received.
 4. An amount of \$295K transferred to the Infrastructure and Facilities Reserve for Street advertising (bus shelters) receipts.
 5. An amount of \$1.2M transferred to the Infrastructure and Facilities Reserve for 15% of depreciation charge.
 6. An amount of \$550K transferred to the Infrastructure and Facilities Reserve for interest earned on cash held in Infrastructure and Facilities Reserve.
 7. Asset sale revenue is transferred to the Infrastructure and Facilities Reserve.
 8. Indicative operational and capital projects in 2010/2011 in each case are recommended, subject to review of committed/special projects and refinement by Council in February 2010, to include:

CAPITAL WORKS AND MAJOR PROJECTS 210/2011 (in 2010/2011 Prices - \$000's)

Project Group	Case 1	Case 2	Case 3	Total Cost
Building Works & Maintenance		204		204
Chambers refurbishment			1,072	1,072
Depot Relocation	8,800			8,800
B2 Land Sale			4,678	4,678
Catchment Management & Analysis	287			287
Community Projects	175			175

Project Group	Case 1	Case 2	Case 3	Total Cost
Human Resources	104			104
Information Technology	261			261
Library Resources	569			569
Plant & Vehicles	1,261			1,261
Town Centre & Urban Design	283			283
Fencing & Parking Areas		164		164
North Turrumurra Recreation Area			5,109	5,109
Open Space Acquisition	3,093			3,093
Parks Development	1,623	313		1,936
Playgrounds	208	134		342
Sports Courts	293			293
Sports Fields	975	466		1,441
Tree Planting	203			203
West Pymble Pool Upgrade			9,197	9,197
Footpaths	432			432
Roads Program	5,806	218		6,024
Traffic Facilities	187			187
Drainage structures	266	358		624
Business Centres Program	203			203
Biodiversity	141			141
Communication	64			64
Community Partnerships	189			189
Fire Management	20			20
Monitoring & Evaluation	128			128
Recreation Facilities	15			15
Regulation & Enforcement	179			179
Town Centre Projects	367			367
Water Catchments	235			235
Water Sensitive Urban Design	507			507
Total at 2010/2011 Prices	26,874	1,857	20,056	48,787

- C. That due to pending negotiations with the Department of Planning regarding the B2 land development and uncertainty of the West Pymble Aquatic Centre income stream, the debt service ratio be kept at 4% or below and as a result defer \$2.6M of capital projects from 2010/11 to 2012/13 and defer \$1.6M of capital projects from 2011/12 to 2013/14.
- D. That Council ratify the revenue/expenditure assumptions provided in this report to enable budget development for 2010/2011 to commence.
- E. That excess accumulated working capital be allocated to Council's Infrastructure Facilities Reserve and be applied to "one-off" projects that improves financial sustainability and provides for services or facilities for the community.
- F. That following the adoption of the 2009 Development Contributions plan next year, the LTFP be reviewed to incorporate this new plan's projects and identified funding sources and re-adopted by Council.

For the Resolution:

*The Mayor, Councillor I Cross, Councillors
Holland, Malicki, Keays, Anderson, Duncombe,
Hardwick & McDonald*

Against the Resolution:

Councillor Hall

312 **Investment Report as at 30 November 2009**

File: S05273

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

Resolved:

(Moved: Councillors Duncombe/McDonald)

- A. That the summary of investments and performance for November 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, Anderson, Duncombe,
Hardwick & McDonald*

Against the Resolution: Councillor Hall

313 **Exhibition and Referral of Draft Ku-ring-gai Contributions Plan 2009**

File: S06785

To seek Council's endorsement to exhibit the Draft Ku-ring-gai Contributions Plan 2009 and to formally refer the draft Plan to the Contributions Review Panel for their advice and comment.

Resolved:

(Moved: Councillors Duncombe/McDonald)

- A. That *Draft Ku-ring-gai Contributions Plan 2009* is placed on public exhibition for the statutory period of 28 days as soon as practical and that the exhibition is extended until Monday 1 February 2010.
- B. That staff be authorised to make any changes to the draft document necessary to give effect to Council's resolution while maintaining the target of keeping contributions towards more affordable housing such as bedsits, studios and one bedroom dwellings at or below the State Government's target of \$20,000 per dwelling unit.
- C. That staff be authorised to make additional minor text amendments to the draft document that have no material effect on the works programme or contributions rates prior to the commencement of exhibition.
- D. That following endorsement by the Council of the draft Contributions Plan for exhibition, the Contributions Review Panel be sent a copy of the Draft Contributions Plan and be formally requested to provide comment and advice.

- E. That a further report be brought to Council after the close of the exhibition period as soon as practicable in 2010.

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

Against the Resolution: Councillor Hall

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

314 Establishment of an Economic Development Unit

File: FY00019

Notice of Motion from Councillor R Duncombe dated 27 November 2009

I move:

"That Council issue an expression of interest inviting qualified individuals/companies to submit quotations to undertake a strategic analysis of the benefits in establishing an Economic Development Unit in Council.

Scoping document to outline high level opportunities for Council together with suggested structure and indicative costings for establishment of the Economic Development Unit.

Prior to committing any funds to this concept, a further report to be submitted to Council to consider submissions received through the expression of interest process."

Resolved:

(Moved: Councillors Duncombe/McDonald)

That the above Notice of Motion as printed be adopted.

CARRIED UNANIMOUSLY

315 West Pymble Pool

File: S04066

Notice of Motion from Councillor E Malicki dated 30 November 2009

Given the scepticism from many at the West Pymble Pool about the financial modelling done for the Pool,

I move that:

"I would like Council to commission a second and independent financial plan as soon as possible. This would involve financial modelling of the income and expenditure of the proposed facility against the designs exhibited and would be undertaken by an appropriate experienced and qualified consultant in this field independent of the

project to date. This study would then be considered by Council prior to any decision to progress the design to Development Application stage."

Resolved:

(Moved: Councillors Malicki/Holland)

That the above Notice of Motion as printed be adopted.

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

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

GENERAL BUSINESS (cont)

*Standing Orders were suspended to deal with items where
there are speakers first which was moved by
Councillors Hall & Hardwick
& was CARRIED UNANIMOUSLY*

316 **Draft Ku-ring-gai Town Centres Public Domain Plan 2009**

File: S05980

The following member of the public addressed the Council:

A Vine

For Council to consider and endorse the draft Ku-ring-gai Town Centres Public Domain Plan 2009 for public exhibition.

Resolved:

(Moved: Councillors Keays/Holland)

- A. That Council adopt draft *Ku-ring-gai Town Centres Public Domain Plan 2009* as included in Attachment 2 for the purpose of public exhibition.
- B. That draft *Ku-ring-gai Town Centres Public Domain Plan 2009* be placed on public exhibition for a period of one month commencing in February 2010.
- C. That the exhibition comprise alternative selections of furniture and paving materials as detailed in the report.
- D. That a report be brought back to Council at the conclusion of the exhibition period.

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

Against the Resolution: Councillors Hall & Hardwick

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

(Moved: Councillors Hall/Hardwick)

- A. That Council adopt draft Ku-ring-gai Town Centres Public Domain Plan 2009 as included in Attachment 2 for the purpose of public exhibition with the two private pedestrian links in Masada College be removed from the plan (P2-16).*
- B. That draft Ku-ring-gai Town Centres Public Domain Plan 2009 be placed on public exhibition for a period of one month commencing in February 2010.*
- C. That the exhibition comprise alternative selections of furniture and paving materials as detailed in the report.*
- D. That a report be brought back to Council at the conclusion of the exhibition period.*

317 **Heritage Reference Committee - Notes of Meeting held 19 October 2009**

File: S07620

The following member of the public addressed the Council:

A Carroll

To advise Council of the notes of the Heritage Reference Committee Meeting held on 19 October 2009.

Resolved:

(Moved: Councillors Anderson/Duncombe)

- A. That Council receive and note the Heritage Reference Committee meeting notes of the 19 October 2009.
- B. That funding of research and the preparation of applications for the state listing of those culturally significant items in Ku-ring-gai relevant to the current State Heritage Register Thematic Listings Program be considered as part of the 2010-2011 budget process.
- C. That Council reinstate the Tulkiyan Management Committee as per the *Tulkiyan Plan of Management (707 Pacific Highway, Gordon) (2001)* and for the reporting structure to be approved by the General Manager.
- D. That the notes pertaining to the former Heritage Advisory Committee meeting minutes of the 21 August 2007 be included in Council's records.

CARRIED UNANIMOUSLY

318 **5 Toongarah Road, Roseville - Supplementary Report**

File: DA0649/09

The undermentioned member of the public addressed the Council:**E Sarich**

To address matters raised at the site inspection of 4 December 2009 and for Council to determine Development Application 0649/09 proposing construction of a double carport.

Resolved:

(Moved: Councillors Anderson/Duncombe)

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

- A. 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 provisions of clause 60C of the Ku-ring-gai Planning Scheme Ordinance in respect of the built upon area development standard is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.
- B. 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 DA 0649/09 is consistent with the aims of the Policy, grant development consent to DA0649/09 for construction of a double carport on land at 5 Toongarah Road, Roseville, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

CONDITIONS THAT IDENTIFY APPROVED PLANS:**1. Approved architectural plans and documentation (alterations and additions)**

The development must be carried out in accordance with work shown in colour on 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
Site analysis plan Drawing No.11:09	North Shore Building Design Group	January 2009
Site plan Drawing No.10:09 Sheet 1 of 3	North Shore Building Design Group	January 2009
Architectural plans 2 of 3 and 3 of 3 Amendment 1	North Shore Building Design Group	12 March 2009

Document(s)

Statement of Environmental Effects by
Urbanesque Planning Pty Ltd

Dated

27 February 2009 and
Council stamped
received date 1 October
2009.

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. Tree Replenishment

The property shall provide one (1) additional canopy trees that will attain 13.0 metres in height on the site. The provided tree shall be shown on the approved Site Plan. The plan shall be submitted to the Principal Certifying Authority and approved by a Landscape Architect or qualified Landscape Designer prior to release of a Construction Certificate.

The tree to be planted is to be locally occurring native trees.

Reason: To preserve the tree canopy and ensure adequate landscaping of the

8. 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:**9. Design Changes**

The following design changes are required:

1. The side access path adjacent to the southern boundary, the access path to the west of the dwelling and the cubby house located within the rear yard as marked in red on the approved plans are to be removed and reinstated with soft landscaping. Details are to be provided to the Principal Certifying Authority prior to the issue of a construction certificate.
2. The area between the retained garden bed and the property boundary as marked in red on the approved plans shall be battered. If this is not achievable than an appropriate low retaining wall structure to a maximum height of 800mm may be provided. The retaining wall structure including footings is to be located entirely within the property boundaries.

Reason: To ensure minimal environmental impact.

10. 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.

11. 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.

12. External finishes and materials (alterations and additions)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the external finishes of the building are consistent with the character of the existing house and the streetscape.

Note: Details of the colour, finish and substance of all external materials, including schedules and a sample board of materials and colours, are to be submitted to the Certifying Authority.

Reason: To protect the streetscape.

13. Steep vehicular access

Prior to the issue of the Construction Certificate, longitudinal driveway section plans are to be prepared by a qualified civil/traffic engineer and submitted to and approved by the Certifying Authority. These profiles are to be at a recognised scale along the shortest edge of the proposed driveway, starting from the centreline of the frontage street carriageway through to the proposed parking stand. The traffic engineer must provide specific written certification on the plans that:

- all changes in grade (transitions) comply with Australian Standard 2890.1 – "Off-street car parking" – 2004 (refer clause 2.5.3) to prevent the scraping of the underside of vehicles
- maximum gradient of driveway does not exceed 25% (1 in 4).
- If a new driveway crossing is proposed in the road reserve, the longitudinal sections must incorporate the driveway crossing levels issued by Council under the terms of this consent

Reason: To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

14. Vehicular access and garaging

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

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

15. Design of works in public road (Roads Act approval)

Prior to issue of the Construction Certificate, the Certifying Authority shall be satisfied that engineering plans and specifications prepared by a qualified consulting engineer have been approved by Council’s Development Engineer. The plans to be assessed must be to a detail suitable for construction issue purposes and must detail the following infrastructure works required in Toongarah Road:

- regrading of the nature strip to allow vehicular access to the carport.

Development consent does not give approval to these works in the road reserve. The applicant must obtain a separate approval under sections 138 and 139 of The Roads Act 1993 for the works in the road reserve required as part of the development. The Construction Certificate must not be issued, and these works must not proceed until Council has issued a formal written approval under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998). Construction of the works must proceed only in accordance with any conditions attached to the Roads Act approval issued by Council.

A minimum of three (3) weeks will be required for Council to assess the Roads Act application. Early submission of the Roads Act application is recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment and inspection fee (set out in Council’s adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council’s Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

Reason: To ensure that the plans are suitable for construction purposes.

16. Utility provider requirements

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

Reason: To ensure compliance with the requirements of relevant utility providers.

17. Design and certification

1. New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 3.
2. Development is determined as being within the "Flame Zone". There is to be no exposed timber to the proposed new Carport.

Reason: To protect against bushfire

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

18. 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.

19. Public liability insurance – works on public land

Any person or contractor undertaking works on public land must take out public risk insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council’s road reserve or public land, as approved in this consent.

The policy is to note and provide protection for Ku-ring-gai Council as an interested party and a copy of the policy must be submitted to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). The policy must be valid for the entire period that the works are being undertaken on public land.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land

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

20. 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.

21. 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.

22. Engineering fees

For the purpose of any development related inspections by Ku-ring-gai Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.

Reason: To protect public infrastructure.

23. Demolition, excavation and construction work hours

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12 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.

24. Construction noise

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

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

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. Maintenance period for works in public road

A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - after the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the applicant receives a formal letter from Council stating that the works involving public infrastructure have been completed satisfactorily.

Reason: To protect public infrastructure.

33. 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.

34. 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.

35. 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.

36. Drainage to street

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system. New drainage line connections to the street drainage system shall conform and comply with the requirements of Sections 5.3 and 5.4 of Ku-ring-gai Water Management Development Control Plan No. 47.

Reason: To protect the environment.

37. 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.

38. 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.

39. Canopy replenishment trees to be planted

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

Reason: To maintain the treed character of the area.

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

**40. Reinstatement of redundant crossings and completion of
infrastructure works**

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

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

All works must be completed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

Reason: To protect the streetscape.

41. Construction of works in public road – approved plans

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that all approved road, footpath and/or drainage works have been completed in the road reserve in accordance with the Council Roads Act approval and accompanying drawings, conditions and specifications.

The works must be supervised by the applicant's designing engineer and completed and approved to the satisfaction of Ku-ring-gai Council.

The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved stamped drawings. The works must be subject to inspections by Council at the hold points noted on the Roads Act approval. All conditions attached to the approved drawings for these works must be met prior to the Occupation Certificate being issued.

Reason: To ensure that works undertaken in the road reserve are to the satisfaction of Council.

42. 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.

CONDITIONS TO BE SATISFIED AT ALL TIMES:

43. Inner Protection Area

At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Reason: To protect against bush fire

For the Resolution: Councillors Holland, Anderson, Duncombe, Hall, Hardwick & McDonald

Against the Resolution: The Mayor, Councillor I Cross & Councillors Malicki & Keays

319 **Local Climate, Local Change Conference 2010**

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File: CY00043

To advise Council of the Local Climate, Local Change Conference 2010.

Resolved:

(Moved: Councillors Malicki/Anderson)

That Councillors who wish attend the Local Climate, Local Change Conference 2010 advise the General Manager by 17 December 2009.

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

Against the Resolution: Councillors Hall & Hardwick

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

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

That the report be received and noted.

320 **Water Street Park**

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File: S06476

To seek Council approval of the draft landscape design plan for the newly acquired park at Lot 1 Water Street, Wahroonga.

Resolved:

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

That Council defer the decision for the draft concept design of the park until the next Council meeting to clarify Council's obligations under the Endangered Species Act.

CARRIED UNANIMOUSLY

321 **Public Toilet Facilities Audit**

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File: S03556

To report on the condition of the amenity blocks in Ku-ring-gai.

Resolved:

(Moved: Councillors Anderson/Hardwick)

That this matter be referred to the Planning Committee to review our standards for present and future public toilet facilities in Ku ring gai and that staff provide a report to Council on funding required to:

- a. Improve the ranking of the facilities in poor condition.
- b. Progressively provide disabled facilities at all large sites.

CARRIED UNANIMOUSLY

**The Mayor, Councillor Ian Cross declared a pecuniary interest in respect of the following item -
Item GB.18 - Remuneration of
Joint Regional Planning Panel Members
and withdrew from the Chamber taking no part
in discussion and voting on the item**

**Councillor Elise Keays declared a pecuniary interest in respect of the following item -
Item GB.18 - Remuneration of
Joint Regional Planning Panel Members
and withdrew from the Chamber taking no part
in discussion and voting on the item**

**Councillor Elaine Malicki declared a pecuniary interest in respect of the following item -
Item GB.18 - Remuneration of
Joint Regional Planning Panel Members
and withdrew from the Chamber taking no part
in discussion and voting on the item**

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

322 **Remuneration of Joint Regional Planning Panel Members**

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File: S04554

To seek clarification of remuneration paid to Councillors appointed to the Joint Regional Planning Panel.

Resolved:

(Moved: Councillors Hall/McDonald)

That Council reinforce its decision of 24 October 2009 that Councillors receive \$500 for attending formal decision-making meetings.

CARRIED UNANIMOUSLY

The Mayor, Councillor I Cross returned and assumed the Chair

Councillors Keays & Malicki returned

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 241 OF GENERAL REGULATIONS

Councillor Jennifer Anderson raised this matter following receipt of correspondence received from the Department of Planning.

*A Motion moved by
Councillors Anderson & Hall to have matter dealt with was LOST*

For the Urgency Motion: Councillors Keays & Anderson

Against the Urgency Motion: The Mayor, Councillor I Cross, Councillors Holland, Malicki, Duncombe, Hall, Hardwick & McDonald

The proposed Notice of Rescission and Substantive Motion are as follows:

323 **B2 Lands at South Turramurra**

File: S02846

On 13 October 2009, Council considered a report on the development directions for the B2 Lands at South Turramurra. At this meeting it was resolved, among other matters:

- A.
 1. *That the Council and the Department of Planning enter into a Joint Venture with a developer (public or private) to develop the B2 Land in South Turramurra as a model Sustainable Village. This is to include design, building and selling of the housing.*
 2. *That to facilitate this venture, a meeting be held as soon as possible between the Department of Planning, Mayor and Ward Councillors, the General Manager and Director Strategy and Environment to secure the involvement of the Department of Planning in this extended process.*
 3. *That a meeting of the Planning Committee be held as soon as possible to discuss the process to achieve the outcome of developing a Sustainable Village, including best practice in Public Private Partnerships.*

In response to correspondence received this afternoon by the Department of Planning (refer to memorandum by Director Strategy and Environment), it would seem advisable to rescind resolution A. 1, 2 and 3 and G.

Reasons for this are presented below

First, the Department of Planning have stated that "*is not supportive of entering a joint venture with a developer given the small scale of the subdivision.*" Arguments presented by the Department is that based on their experience the size and scale of the development is too small for a developer to make the necessary investment for the possible returns. Furthermore, the Department has stated such an agreement would require the Department and Council to forward fund the capital works that may extend to the construction of housing. This is a matter that would most likely impact on Council's long term financial model and funding for other projects of community benefit.

Second, the Department has stated their preference of a meeting with "*full Council*" in early February 2010. This decision would mean the meeting scheduled between the Department, Mayor, Ward Councillors and Senior Staff has been cancelled. This effectively denies the meeting sought by resolution A.2.

Third, the Department has stated their experience is in the development and sale of retail lots to the market, not the design and build of finished housing products. It infers that urban design parameters to achieve the sustainable village, as resolved by Council, can be achieved through a site specific development control plan. As such, the meeting with all Councillors would be better served to consider site specific aspects such as setbacks, floor space and landscaping rather than public private partnerships that the Department has stated they have no interest in.

Previously the Department have been supportive of incorporating sustainable features within the civil works such as road and stormwater drainage. These elements should remain as a priority within the Memorandum of Understanding (G. of the resolution) and future development of the subdivision and be used as an example of sustainable public infrastructure design and construction.

Accordingly that Council rescind Resolutions A.1, A.2 and A.3 and G of Minute Number 208 of the Ordinary Meeting of Council held 13 October 2009 as follows:

- A. 1. *That the Council and the Department of Planning enter into a Joint Venture with a developer (public or private) to develop the B2 land in South Turrumurra as a model Sustainable Village. This is to include design, building and selling of the housing.*
2. *That to facilitate this venture, a meeting be held as soon as possible between the Department of Planning, Mayor and Ward Councillors, the General Manager and Director of Strategy, to secure the involvement of the Department of Planning in this extended process.*
3. *That a meeting of the Planning Committee be held as soon as possible to discuss the process to achieve the outcome of developing a Sustainable Village, including best practice in Public Private Partnerships.*

This would be replaced as follows:

- A. That a meeting of the Planning Committee be held in February to discuss the process site specific development controls to achieve best practice civic infrastructure.

Further Resolution G *"That a new Memorandum of Understanding be developed and entered into with the Department of Planning which reflects the resolution of Council arising from this report,"* be amended to read:

- G. That a new Memorandum of Understanding be developed and entered into with the Department of Planning which reflects the **amended** resolution of Council arising from the report.

*The following item was dealt with after a Motion
Moved by Councillors Hall and Anderson to
have the matter dealt with at the meeting was CARRIED
and the Mayor ruled urgency*

*For the Urgency Motion: The Mayor, Councillor I Cross, Councillors
Holland, Anderson, Duncombe & Hardwick*

Against the Urgency Motion: Councillors Malicki, Keays, Hall & McDonald

324 **Reclassification of Land**

File: S07629

**5 Ray Street, Turramurra
(Part)11-21 Cowan Road, St Ives being Lot 2 DP 822373 and
Lot 1 DP 420106
(Part) 11-21 Cowan Road, St Ives being Lot A DP 321567,
Lot 1 DP 504794, Lots A and B DP 336206**

The Ku-ring-gai Planning Panel will be considering Council's list of sites for reclassification at its meeting on Wednesday, 9 December 2009. At the Council Meeting on 24 November 2009, regarding land reclassification sites at 5 Ray Street, Turramurra and 11-21 Cowan Road, St Ives were considered, but not included in the list of sites being forwarded to the Ku-ring-gai Planning Panel for a new Draft LEP to permit reclassification to operational land status.

In respect of the Turramurra site, it is noted that site 12 William Street, Turramurra was adopted by Council for reclassification to operational land, this site is too small to be developed in isolation. However, for this precinct to be revitalised in an efficient manner and to meet the objectives of the Draft LEP and DCP and to provide the best outcome for the Council and the community, 5 Ray Street, Turramurra should also be included in the list of sites for reclassification.

Similarly, the sites in St Ives involve existing community facilities that are proposed for upgrading and can only be accomplished by reclassifying these sites to

operational and meeting the vision for the St Ives Village Centre as adopted in Council's DCP and Domain Plan.

Resolved:

(Moved: Councillors Hall/Anderson)

- A. That Council adopt the following sites 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
S1 (Part) 11-21 Cowan Road, St Ives being Lot 2 DP 822373 and
Lot 1 DP 420106
S2 (Part) 11-21 Cowan Road St Ives being Lot A DP 321567,
Lot 1 DP 504794, Lots A and B DP 336206

- B. That Council request the Ku-ring-gai Planning Panel to include the abovementioned sites in the new Draft Local Environmental Plan as a site for reclassification to operational status.
- C. That Council request that the Ku-ring-gai Planning Panel exhibition process for the abovementioned sites 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).
- D. That Council include the abovementioned sites in the public hearing into the proposed reclassification of the lands.
- E. That following reclassification and subdivision of the St Ives sites, Council resolve to undertake the necessary action to reclassify back to Community land status that part of the sites not requires ad operational land.

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

Against the Resolution: Councillors Holland, Malicki, Keays & McDonald

QUESTIONS WITHOUT NOTICE

325 **Rippon Grange - John Williams**

File: S07617

Question Without Notice from Councillor D McDonald

Now that Waterbrook has submitted their Preferred Project Review, will staff put in a submission on the credibility of that report?

Answer by the Director Development & Regulation

We need to establish whether or not Council has the ability to do that but we will certainly take that on notice and respond.

326 B2 Lands, South Turramurra

File: S02846

Question Without Notice from Councillor E Malicki

Will the Mayor be writing to the new Minister for Planning about the letter from the Department of Planning refusing to consider being involved in the development of a Sustainable Village on this land?

Can you ask the Minister for the meeting Council requested to go ahead rather than be dismissed?

Answer by the Mayor

I will.

327 Annual Report Legal Contracts for the year 2009

File: FY00019

Question Without Notice from Councillor T Hall

I refer to the Council's adopted 2008/2009 Annual Report and invite the General Manager's attention to page 70 identifying \$987,810.95 being paid to Deacons Solicitors by this Council in that year.

As nearly One Million Dollars has been paid in the 12 month period to this one of five legal consultants, would the General Manager provide an itemised list of all legal matters Deacons were paid for by Council above \$50,000 in each case please?

Answer by the General Manager

I would be happy to provide a breakdown of those costs.

328 "Under the Canopy" History

File: S02646

Question Without Notice from Councillor T Hall

What progress has the General Manager made to correct the alleged inaccuracies of matters pertaining to Councillor Malicki's term of office in 1999 please?

Answer by the Director Community

I have spoken with the authors and they are in the process of getting a response to me.

329 Section 430 Report - Removed from "Under the Canopy" Publication

File: S02646

Question Without Notice from Councillor E Malicki

Can Director Bevan give us information, in writing, as to why the Section 430 Report information was removed from "Under the Canopy" please and who influenced that decision?

Answer by the Mayor

Thank you, Councillor Malicki.

**Council resolved itself into Closed Meeting
with the Press & Public Excluded
to deal with the following item
after a Motion moved by
Councillors Hall & Malicki was CARRIED UNANIMOUSLY**

Councillor Anderson withdrew

330 Debt Recovery Action

File: S06778

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(b) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Section 10A (2)(b) of the Act permits the meeting to be closed to the public in respect of information that relates to the personal hardship of any resident or ratepayer.

This matter is classified confidential because it deals with the hardship of a ratepayer who has been declared bankrupt.

Notice of Motion by the Mayor, Councillor Ian Cross dated 1 December 2009

I refer to the lapsed Motion of 24 November 2009 in relation to debts claimed by Council from Mr Nicholas Ebbeck. In light of further information that has been received regarding the matter,

I move

- "A. That due to the unlikelihood that the debt can be recovered that Council not pursue debt recovery action for debts claimed by Council from Mr Nicholas Ebbeck totalling \$8,821.86.
- B. That the amount of \$8,821.86 be written off against the 2009/10 Income Statement."

Resolved:

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

That the above Notice of Motion as amended be adopted.

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

Against the Resolution: Councillor Malicki

To Open Council

The General Manager adverted to the consideration of the matters referred to in the Minute numbered 330, and to resolutions contained in such Minute.

NOTICE OF RESCISSION

The Mayor advised Council of receipt of a Notice of Rescission in relation to the matter - Reclassification of Land signed by Councillors Malicki, McDonald and Holland.

The Notice of Rescission will be dealt with at the next Ordinary Meeting of Council on 2 February 2010.

The Meeting closed at 10.35pm

The Minutes of the Ordinary Meeting of Council held on 8 December 2009 (Pages 1 - 41) were confirmed as a full and accurate record of proceedings on 2 February 2010.

General Manager

Mayor / Chairperson