

## MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 9 NOVEMBER 2010

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)  
Acting Director Corporate (Tino Caltabiano)  
Director Development & Regulation (Michael Miocic)  
Director Operations (Greg Piconi)  
Director Strategy & Environment (Andrew Watson)  
Manager Urban & Heritage Planning (Antony Fabbro)  
Director Community (Janice Bevan)  
Senior Governance Officer (Geoff O'Rourke)  
Director Operations PA (Judy Edwards)

*The Meeting commenced at 7.02pm*

*The Mayor offered the Prayer*

### **APOLOGIES**

File: S02194

**NOTE:** The Director Corporate, John Clark, tendered an apology for non-attendance [prior commitment].

### 353 **CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING**

File: S02499

#### **Resolved:**

(Moved: Councillors Keays/Szatow)

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:

**Refer GB.8 Carlotta Depot Tenders - Attachment to report**

**CARRIED UNANIMOUSLY**

## DECLARATIONS OF INTEREST

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

No Interest was declared.

## ADDRESS THE COUNCIL

The following members of the public addressed Council on items not on the Agenda:

A Shacham

## DOCUMENTS CIRCULATED TO COUNCILLORS

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

**Memorandums: Refer GB.6 - 170 Tryon Road, East Lindfield - Alterations & Additions including Swimming Pool** - Memorandum by Director Development & Regulation dated 9 November 2010 regarding site inspection results.

**Refer GB.9 - Climate Change Adaptation Strategy** - Memorandum by Director Strategy & Environment dated 8 November 2010 of an omission on page 38 of the attachment (Page 231 of the Business Paper) in column 2.

**Refer GB.10 - Response to Submissions on Draft Amendment 1 to the Ku-ring-gai Development Control Plan (Town Centres) 2010** - Memorandum by Manager Urban & Heritage Planning dated 5 November 2010 with an attachment of a coloured version of Attachment 4 - Greenweb map showing vegetation and advising that the black & white map contained within the hardcopy of the Business Paper is misleading.

## CONFIRMATION OF MINUTES

### 354 Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 19 October 2010  
Minutes numbered 338 to 352

**Resolved:**

(Moved: Councillors Keays/Anderson)

That Minutes numbered 338 to 352 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

**CARRIED UNANIMOUSLY**

**GENERAL BUSINESS**

*Standing Orders were suspended  
to deal with GB.5 after a Motion  
moved by Councillors Keays & Anderson  
was CARRIED UNANIMOUSLY*

355

**Council Sponsorship for the Ku-ring-gai Philharmonic Orchestra**

File: S05650

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

To advise Council of a sponsorship proposal from the Ku-ring-gai Philharmonic Orchestra.

**Councillor Hardwick arrived during debate**

**Resolved:**

(Moved: Councillors Szatow/Keays)

- A. That Council sponsor the Ku-ring-gai Philharmonic Orchestra for \$20,000 as requested.
- B. That a sponsorship agreement be developed with the Ku-ring-gai Philharmonic Orchestra, according to Council's Sponsorship and Donations Policy, reflecting the recommended sponsorship amount.

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

*Against the Resolution:              Councillor Malicki*

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

*(Moved: Councillors Malicki/Duncombe)*

*That the contribution for the Ku-ring-gai Philharmonic Orchestra remain at \$10,000.*

## **MINUTES FROM THE MAYOR**

356

### **Proposed Reclassification of Council Land - 5 Ray Street, Turramurra**

File: S07624/2

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

**W Kullen**  
**D Warner**  
**C Berlioz**

The Ku-ring-gai Local Environmental Plan (Town Centres) 2010 came into effect on 25 May, 2010, with Council adopting the Ku-ring-gai Development Control Plan (Town Centres) 2010 on 8 June, 2010. The Ku-ring-gai Development Control Plan (DCP) provides details of the planning objectives for each of the town centres.

Council has resolved to reclassify 19 sites within the town centres from Community to Operational land, (including 12 William Street, Turramurra) to make possible the delivery of the planning objectives detailed in the DCP. The first step in the reclassification process is now underway with the Planning Proposal on exhibition by the Ku-ring-gai Planning Panel.

On 30 June 2010, Council hosted a community briefing on the Ray Street, Turramurra precinct. The purpose of the briefing was for Council to gain an appreciation of Coles' potential development options for the site. Adjacent to the Coles site are Council's library and car park facilities (located on two parcels of land including 5 Ray Street and 12 William Street, Turramurra) which are classified community land.

Following further consideration of the options presented to Council, and in an attempt to maximize the community benefits through the redevelopment of our site which has the potential to provide for a range of uses which could include community facilities, retail/commercial areas, and improvements to the public domain.

I am proposing that 5 Ray Street, Turramurra, also be included in the process to reclassify the site from community land to operational land status.

Proceeding with the reclassification has the potential to provide Council with the flexibility to deliver the key community infrastructure that is required to support the

new development and population, and also improvements to our facilities, public domain areas and civic places.

**Resolved:**

- A. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:
- 5 Ray Street, Turramurra being Lot 2 DP 221290
- B. 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) 2010, to list 5 Ray Street, Turramurra to have operational land status.
- C. 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.
- D. That Council undertake a public hearing into the proposed reclassification of the site listed in A above.
- E. That 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.
- F. 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, Anderson, Duncombe, Hall*

*Against the Resolution:           Councillors Malicki, Keays, Szatow, Hardwick and  
McDonald*

*The voting being EQUAL,  
the Mayor exercised his Casting Vote  
IN FAVOUR of the Motion*

*The above Resolution was subject to 3 Amendments which were LOST.*

*The 1st Lost Amendment was:*

*(Moved: Councillors Malicki/McDonald*

- A. That Council agrees in principle to reclassify its land at 5 Ray Street, Turramurra once a firm proposal is available to present to residents, shopkeepers and other interested parties.*
- B. That to begin this process, Council should determine the minimum amount of open space it requires in the Ray Street precinct for present*

*and future residents and where this will be located. This should take account of the fact that the "triangle" lands may not ever become fully available for open space, especially in the light of a recent 25 year lease on one critically sited property.*

- C. That feasibility studies should be carried out to determine what height of buildings is required in this precinct to supply an improved library and the community facilities proposed for this precinct of Turramurra. (Full financial modelling for all proposals are to be provided together with a cost-benefit analysis regarding the sale of any assets being considered.)*
- D. That details as to how funds raised through asset sales, including roads, will be allocated is to be provided.*
- E. That a feasibility study and financial modelling should also be provided for the expansion of Turramurra Library and the implementation of other community facilities proposed for Turramurra should 5 Ray Street not be included in development proposals.*
- F. That an indication as to the costs of these studies should be brought to the Budget and Planning sessions to be held next week.*
- G. That discussions should continue with Coles to determine their exact needs for the site and what they are prepared to consider in a joint venture. As well council should seek Expressions of Interest for the Ray Street precinct to ensure fairness to all who might have an interest in this precinct.*
- H. That community information forums should be held at critical stages of this process to facilitate direct community input into the planning.*

*The 2nd Lost Amendment was:*

*(Moved: Councillors Malicki/McDonald)*

- A. That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:  
  
5 Ray Street, Turramurra being Lot 2 DP 221290*
- B. 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) 2010, to list 5 Ray Street, Turramurra to have operational land status.*
- C. 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.*
- D. That Council undertake a public hearing into the proposed reclassification of the site listed in A above.*

- E. *That 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.*
- F. *That when received, the Chairperson's report on the public hearing be the subject of a further report for Council's consideration.*
- G. *That to begin this process, Council should determine the minimum amount of open space it requires in the Ray Street precinct for present and future residents and where this will be located. This should take account of the fact that the "triangle" lands may not ever become fully available for open space, especially in the light of a recent 25 year lease on one critically sited property.*
- H. *That feasibility studies should be carried out to determine what height of buildings is required in this precinct to supply an improved library and the community facilities proposed for this precinct of Turramurra. (Full financial modelling for all proposals are to be provided together with a cost-benefit analysis regarding the sale of any assets being considered.)*
- I. *That details as to how funds raised through asset sales, including roads, will be allocated is to be provided.*
- J. *That a feasibility study and financial modelling should also be provided for the expansion of Turramurra Library and the implementation of other community facilities proposed for Turramurra should 5 Ray Street not be included in development proposals.*
- K. *That an indication as to the costs of these studies should be brought to the Budget and Planning sessions to be held next week.*
- L. *That discussions should continue with Coles to determine their exact needs for the site and what they are prepared to consider in a joint venture. As well Council should seek Expressions of Interest for the Ray Street precinct to ensure fairness to all who might have an interest in this precinct.*
- M. *That community information forums should be held at critical stages of this process to facilitate direct community input into the planning.*

*The 3rd Lost Amendment was:*

*(Moved: Councillors Malicki/McDonald)*

- A. *That Council adopt the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:*
- 5 Ray Street, Turramurra being Lot 2 DP 221290*
- B. *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) 2010, to list 5 Ray Street, Turramurra to have operational land status.*

- C. 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.*
- D. That Council undertake a public hearing into the proposed reclassification of the site listed in A above.*
- E. That 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.*
- F. That when received, the Chairperson's report on the public hearing be the subject of a further report for Council's consideration.*
- G. That to begin this process, Council should determine the minimum amount of open space it requires in the Ray Street precinct for present and future residents and where this will be located. This should take account of the fact that the "triangle" lands may not ever become fully available for open space, especially in the light of a recent 25 year lease on one critically sited property.*
- H. That feasibility studies should be carried out to determine what height of buildings is required in this precinct to supply an improved library and the community facilities proposed for this precinct of Turramurra. (Full financial modelling for all proposals are to be provided together with a cost-benefit analysis regarding the sale of any assets being considered.)*
- I. That details as to how funds raised through asset sales, including roads, will be allocated is to be provided.*
- J. That a feasibility study and financial modelling should also be provided for the expansion of Turramurra Library and the implementation of other community facilities proposed for Turramurra should 5 Ray Street not be included in development proposals.*
- K. That an indication as to the costs of these studies should be brought to the Budget and Planning sessions to be held next week.*
- L. That Council should seek Expressions of Interest for the Ray Street precinct to ensure fairness to all who might have an interest in this precinct.*
- M. That community information forums should be held at critical stages of this process to facilitate direct community input into the planning.*



**PETITIONS****357 Handley Avenue, Turramurra - Petition to Review Priorities for Construction of Footpaths - (One Hundred and Seven [107] Signatures)**

Files: TM10/02, 88/05520/01

"We, the undersigned, request that Council review the approval process and bring forward the construction of the footpath in Handley Avenue, Turramurra. A pre-school has been located in this street for nearly 50 years, however the footpath is approved for building in the year 2020.

During wet weather, the roadside strip is not passable by foot, so the parents and children have little choice but to walk on the road. Being a cul-de-sac increases the danger, as traffic is passing in two directions as vehicles enter and leave the street. In addition, several building developments in the street increase the danger considerably. Parts of the roadside strip and the road itself are completely blocked off by building equipment and machines.

In these circumstances, we ask that Council consider our petition to prioritise the building of the footpaths in Handley Avenue. This would remove the risk to the children and parents who are currently forced to walk on the road during wet weather and construction.

The safety of our children is our overriding concern, and we hope you take this into consideration in reviewing our petition."

**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**

**358 Petition to resolve Multiple Ownership of Carcoola Road Reserve - (Eighty-Nine [89] Signatures)**

File: S05624

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

"We, the undersigned, would like to commence discussions with Council to resolve the multiple ownership of Carcoola Reserve by State and Local Government so that the Reserve can be permanently zoned as 6A Open Parkland."

**Resolved:**

(Moved: Councillors Hall/Hardwick)

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

**CARRIED UNANIMOUSLY**

**GENERAL BUSINESS** (cont)

359

**Council Meeting Cycle for 2011**

File: S02355

To consider the proposed Council Meeting Cycle for 2011 which takes account of school holidays, public holidays, the Local Government Association Conference and the Christmas Recess.

**Resolved:**

(Moved: Councillors Malicki/Duncombe)

A. That the Council meeting cycle for 2011 be as follows:

February:	1 February 2011 22 February 2011	Ordinary Meeting of Council Ordinary Meeting of Council
March:	8 March 2011 22 March 2011	Ordinary Meeting of Council Ordinary Meeting of Council
April:	5 April 2011	Ordinary Meeting of Council
May:	3 May 2011 24 May 2011	Ordinary Meeting of Council Ordinary Meeting of Council
June:	14 June 2011 28 June 2011	Ordinary Meeting of Council Ordinary Meeting of Council
July:	19 July 2011 26 July 2011	Ordinary Meeting of Council Ordinary Meeting of Council
August:	9 August 2011 23 August 2011	Ordinary Meeting of Council Ordinary Meeting of Council
September:	6 September 2011 20 September 2011	Ordinary Meeting of Council Ordinary Meeting of Council

October:	11 October 2011	Ordinary Meeting of Council
	18 October 2011	Ordinary Meeting of Council
November:	8 November 2011	Ordinary Meeting of Council
	22 November 2011	Ordinary Meeting of Council
December:	6 December 2011	Ordinary Meeting of Council
	13 December 2011	Ordinary Meeting of Council

- B. That the first meeting for 2012 be held on 7 February 2012 and the normal meeting cycle resume on 28 February 2012.

**CARRIED UNANIMOUSLY**

360

**4 to 8 Railway Avenue, Wahroonga - Alterations & Additions to an Existing Commercial Building**

File: DA0595/10

To determine development application No.0595/10, which proposes alterations and additions to an existing commercial building.

**Resolved:**

(Moved: Councillors Malicki/McDonald)

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

That Ku-ring-gai Council, as the consent authority, refuse development consent to DA No. 595/10 for alterations and additions to an existing commercial building on land at 4 to 8 Railway Avenue, Wahroonga, for the following reasons:

**1. Excessive floor space ratio**

**Issue**

The non compliance with the FSR control is not in keeping with the low density character of this commercial area, and does not meet the on site parking requirement. Approval of the application would set an unacceptable precedence contrary to good planning outcomes within the low density commercial area with its on street parking already nearing capacity.

**Particulars**

- The proposed 1.74:1 floor space ratio (FSR) of the development breaches the maximum permissible 1.0:1 FSR control prescribed by Clause 30B (2) of the Ku-ring-gai Planning Scheme Ordinance (KPSO).

- The scale and character of the proposed development, with a building footprint that occupies a large proportion of the allotment and substantial first floor area, is inconsistent with the predominant scale and character of surrounding commercial developments within the Wahroonga Village commercial precinct.
- The proposal fails to satisfy Objective (b) set out under Clause 29 of the KPSO for development undertaken in 3(a) Business – Retail Services zones that seeks to ensure the commercial development is of an appropriate scale and character for the role of the commercial precinct in which it is to be contained.
- The proposed large variation to the maximum floor space ratio would set a precedent for future development in this centre, post the KLEP (gazetted May 2010), which would adversely impact on the hierarchy and function of centres planned for increased business and retail density. It is therefore not 'orderly or economic development of the land' as required in the objects of the Act.
- The approval of the proposed development, that incorporates an excessive FSR, would set a negative and undesirable precedent in relation to the deficiency in long term on site parking. The shortfall would have to be compensated by the local residential street network and will lead to it exceeding capacity if the other commercial development were to develop in a similar manner within the Wahroonga Village commercial precinct.

## **2. The SEPP 1 Objection submitted by the applicant is not well founded**

### **Issue**

The SEPP 1 Objection is not well found as the applicant has failed to demonstrate the proposal meets the test for acceptability. The non compliance with the standard is directly linked to another unacceptable non compliance to meet Council's on site parking provisions.

### **Particulars**

- The SEPP1 Objection has not satisfactorily demonstrated why compliance with the FSR development standard prescribed by Clause 30B (2) of the KPSO is unnecessary or unreasonable in the circumstances of this case.
- The SEPP1 objection has failed to demonstrate how the development satisfies the underlying objectives of the development standard set out under Clause 30B (1-b) of the KPSO.
- The scale and character of the proposed development, with a building footprint that occupies a large proportion of the allotment and substantial first floor area, is inconsistent with the predominant scale and character of surrounding commercial developments within the Wahroonga Village commercial precinct.

- The additional floor area and use proposed will result in increased demand for vehicle parking spaces. However, the proposal does not provide sufficient, onsite, long-stay parking spaces to accommodate the increased demand that will be generated by the development. This shortfall must be met by the available public parking surrounding the site. However, should the density of adjacent commercial development increase to a level similar to that of the proposal (based on the precedent that may be set through the approval of the application), this shortfall will be of a detrimental impact on the capacity of the available public parking surrounding the commercial precinct in the long term.
- The subject site is not identified to be constrained in any manner that would otherwise unreasonably prevent compliance with the development standard.

**CARRIED UNANIMOUSLY**

361 **Climate Change Adaptation Strategy**

File: S06055

To present to Council for adoption an amended draft Climate Change Adaptation Strategy.

**Resolved:**

(Moved: Councillors Malicki/Szatow)

- A. That the draft *Climate Change Adaptation Strategy* be adopted.
- B. That community members who have participated in the exhibition period be notified of the adoption.
- C. That the strategy be placed on Council's website and that a purchase price be applied to hard copies in accordance with Council's Fees and Charges.

**CARRIED UNANIMOUSLY**

362 **Response to Submissions on Draft Amendment 1 to the Ku-ring-gai Development Control Plan (Town Centres) 2010**

File: CY00054/2

To enable Council to consider draft Amendment 1 to the Ku-ring-gai Development Control Plan (Town Centres) 2010 following the formal exhibition period.

**Resolved:**

(Moved: Councillors Malicki/Holland)

- A. That Council amend the categories identified on the Greenweb map in the Ku-ring-gai Development Control Plan (Town Centres) 2010 as shown in Attachment 4.
- B. That Council create a process where Council identified or agreed changes are tracked to facilitate revision of Greenweb map and the LEP and DCP from time to time.
- C. That the descriptions of Category 3 and Category 5 in the Ku-ring-gai Development Control Plan (Town Centres) 2010 be amended as outlined in the report.

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

*Against the Resolution:              Councillor Keays*

363      **Public Exhibition of Conservation Agreements for Browns Forest & the  
Ku-ring-gai Flying Fox Reserve**

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File: S02642

To inform Council of the exhibition of the Conservation Agreements for Browns Forest and the Ku-ring-gai Flying Fox Reserve and to provide a basis for submission to the Department of Environment Climate Change and Water (DECCW).

**Resolved:**

(Moved: Councillors Malicki/Hall)

That Council send a letter in support of the draft Conservation Agreements to the Department of Environment Climate Change and Water.

**CARRIED UNANIMOUSLY**

364      **Unstructured Recreation Strategy reviewed after Public Exhibition**

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File: S06520

To seek Council's adoption of the amended draft Unstructured Recreation Strategy.

**Resolved:**

(Moved: Councillors Malicki/McDonald)

- A. That Council adopt the amended draft Unstructured Recreation Strategy as outlined in the report and included as Attachment 2 with the inclusion of a Code of Conduct for dog walkers.
- B. That Council notify all individuals, clubs and stakeholders that participated in the consultation process
- C. That Council proceed with the construction of Stage 1 of the mountain bike facility at Golden Jubilee Oval as contained in the adopted Operational Plan and Delivery Program for 2010/14.
- D. That key recommendations from the adopted strategy be incorporated within future staff works plans and considered in draft budgets of Council as appropriate.

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

*Against the Resolution:              Councillors Keays and Hall*

365

**Sustainability Reference Committee - Notes of Meetings held 6 & 27 September 2010**

File: S07619

To bring to the attention of Council the proceedings of the Sustainability Reference Committee Meetings held on 6 and 27 September 2010.

**Resolved:**

(Moved: Councillors Malicki/Holland)

That the notes and attachments of the Sustainability Reference Committee meetings held 6 and 27 September 2010 be received and noted.

**CARRIED UNANIMOUSLY**

366 **Proposal to re-Establish Alcohol Free Zones**

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File: S03151

To consider the re-establishment of Alcohol Free Zones in South Turrumurra Shopping Centre, South Turrumurra, Wade Lane car park, Gordon and St Ives Village Green, St Ives.

**Resolved:**

(Moved: Councillors Malicki/Hall)

- A. That Council proceeds with the proposal to renew the Alcohol Free Zones in South Turrumurra Shopping Centre, South Turrumurra, Wade Lane car park, Gordon and St Ives Village Green, St Ives by notification and invitation for public comment in accordance with Section 644A of the Local Government Act 1993.
- B. That should there be no substantial objections, the General Manager be authorised to implement the operation of the Alcohol Free Zones.
- C. That the Alcohol Free Zones be established for a period of four (4) years from the date of declaration in accordance with the provisions of the Local Government Act (Ministerial Guideline on Alcohol Free Zones ) 2009.

**CARRIED UNANIMOUSLY**

*Standing Orders were suspended to deal with items  
where there are speakers first after a  
Motion moved by Councillors Hall and Keays  
was CARRIED UNANIMOUSLY*

367 **Ku-ring-gai Youth Development Service (KYDS) - Request for Funding Assistance**

.  
File: S05139

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

**D Citer  
N Dougall**

To report to Council on possible funding options for the Ku-ring-gai Youth Development Service (KYDS).



**Resolved:**

(Moved: Councillors Hall/Anderson)

- A. That the report be received and noted and that the matter of providing additional funding for KYDS be considered as part of Council's 2011/2012 budget discussions.
- B. That Council support representations to Federal and State Governments through the local members for additional funding.

**CARRIED UNANIMOUSLY**

*A Motion was moved by Councillors Hall and Malicki  
to hear a maximum of 3 speakers for and  
3 speakers against on the following item  
was CARRIED UNANIMOUSLY*

368 **170 Tryon Road, East Lindfield - Alterations & Additions including  
Swimming Pool**

File: DA0572/10

Ward: Roseville

Applicant: C plus C Design Construct Pty Ltd

Owner: Ms T Rath

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

**S Bekkedahl  
S Parrott  
S van der Sluys  
J Rath  
S Jarvis  
C Cole**

To determine Development Application No.0572/10, which seeks consent for alterations and additions to the existing dwelling and a swimming pool located in the rear garden.

**Resolved:**

(Moved: Councillors Hall/Hardwick)

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

That the Council, as the consent authority, grant development consent to DA 0572/10 for alterations and additions to the existing dwelling and construction of a swimming pool on land at 170 Tryon Road, East Lindfield, for a period of five (5)

years from the date of the Notice of Determination, subject to the following conditions:

**CONDITIONS THAT IDENTIFY APPROVED PLANS:**

**1. Approved architectural plans and documentation (alterations and additions)**

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

Plan no.	Drawn by	Dated
DA001B, DA002B, DA010, DA011B, DA020, DA021B, DA030B, DA031B, DA040B, DA050, DA051, DA052, DA pool 01	C plus C Design Construct Pty Ltd	10/08/10, 6/10/10 and 1/11/10

Document(s)	Dated
Basix Certificate No. A91255	9 August, 2010

**Reason:** To ensure that the development is in accordance with the determination.

**2. Approved landscape plans**

Landscape works shall be carried out in accordance with the following landscape plan(s), listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan no.	Drawn by	Dated
DA06	C plus C Design Construct	10/08/10

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

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

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

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

**7. Tree replenishment**

The property shall support a minimum number of three canopy trees that will attain 13.0 metres in height on the site. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to the Principal Certifying Authority and approved by a Landscape Architect or qualified Landscape Designer prior to the issue of a Construction Certificate.

100% of the canopy trees to be planted are to be locally occurring native trees, consistent with the Sydney Sandstone Ridgetop Woodland plant community.

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

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:****8. Amendments to approved architectural plans.****A. Asset protection zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

1. 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'.

**B. Design and construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

2. New construction on the north elevation shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" Section 9.

However, any material, element of construction or system when tested to the method described in Australian Standard ASI 530.8.2 "Methods for fire tests on building materials, components and structures Part 8.2: Tests on elements of construction for buildings exposed to simulated bushfire attack—Large flaming sources" shall comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted.

Windows assemblies shall comply with modified Section 9 of AS3959 (as above) or the following:

- i. They shall be completely protected by a non-combustible and non perforated bushfire shutter that complies with Section 3.7 excluding (e) and (f); and
- ii. They shall comply with the following:
  - a) Window frames and hardware shall be metal;
  - b) Glazing shall be toughened glass, minimum 5mm;
  - c) Seals to stiles, head and sills or thresholds shall be manufactured from materials having a flammability index no greater than 5;
  - d) The openable portion of the window shall be screened internally or externally with a mesh with a maximum aperture of 2mm, made from corrosion resistant steel

or bronze. The frame supporting the mesh shall be metal.

External doors (not including garage doors) shall comply with modified Section 9 of AS3959 (as above) or the following:

- iii. They shall be completely protected by a non-combustible and non perforated bushfire shutter that complies with Section 3.7 excluding (e) and (f); and
- iv. They shall comply with the following:
  - a) Doors shall be non-combustible;
  - b) Externally fitted hardware that supports the panel in its function of opening and closing shall be metal;
  - c) Where doors incorporate glazing, the glazing shall be toughened glass minimum 6mm;
  - d) Seals to stiles, head and sills or thresholds shall be manufactured from silicone;
  - e) Doorframes shall be metal;
  - f) Doors shall be tight fitting to the doorframe or an abutting door;
  - g) Weather strips, draught excluders or draught seals shall be installed if applicable.
- 3. New construction on the east, south and west elevation(s) shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 40.
- 4. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall have a Flammability Index of no greater than 5 when tested in accordance with Australian Standard AS1530.2-1 993 "Methods for Fire Tests on Building Materials, Components and Structures - Test for Flammability of Materials".
- 5. Any new fencing shall comply with Development Control Services 'Fast Fact 2/06' for Fences and Gates in Bush Fire Prone Areas.

**Reason:** Bush fire safety.

## 9. Amendments to approved landscape plan

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the approved landscape plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
DA06	CplusC Design Construct	10/08/2010

The above landscape plan(s) shall be amended in the following ways:

- The site is to be maintained as per the RFS requirements.
- The proposed screen planting adjacent to the eastern and western site boundaries is to be deleted.
- Tree replenishment planting and the increased setbacks from the front boundary for the garage and bedroom 4 as shown on the upper floor plan DA011B are to be shown.

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the landscape plan has been amended are required by this condition.

**Note:** An amended plan, prepared by a landscape architect or qualified landscape designer shall be submitted to the Certifying Authority.

**Reason:** To ensure adequate landscaping of the site

#### 10. Amendments to engineering plans

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the engineering plan(s), listed below have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
09-057	CplusC Design Construct	10/8/2010

The above engineering plan(s) shall be amended as follows:

- The clear height of the proposed single garage door increased to a minimum 2.2m (currently 2.0m).

The above amendments are required to ensure compliance with Australian Standard 2890.1 - "Off-street car parking".

**Reason:** To ensure that the development is in accordance with the determination.

#### 11. Long service levy

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

**Reason:** Statutory requirement.

## 12. **Builder's indemnity insurance**

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the Certifying Authority for endorsement of the plans accompanying the Construction Certificate.

It is the responsibility of the applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of \$12,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than \$12,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

**Reason:** Statutory requirement.

## 13. **External service pipes and the like prohibited**

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building. Details confirming compliance with this condition must be shown on construction certificate plans and detailed with construction certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on construction certificate plans and detailed with construction certificate specifications. External vents or roof vent pipes must not be visible from any place unless detailed upon development consent plans. Where there is any proposal to fit external service pipes or the like this must be detailed in an amended development (S96) application and submitted to Council for determination.

Vent pipes required by Sydney Water must not be placed on the front elevation of the building or front roof elevation. The applicant, owner and builder must protect the appearance of the building from the public place and the appearance of the streetscape by elimination of all external services excluding vent pipes required by Sydney Water and those detailed upon development consent plans.

**Reason:** To protect the streetscape and the integrity of the approved development.

## 14. **Drainage of paved areas**

All new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details of such measures shall be shown on the Construction Certificate drawings, to the satisfaction of the Certifying Authority.

**Reason:** To control surface run off and protect the environment.

#### 15. 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.

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

#### 16. Infrastructure restorations fee

To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.
- e) In this condition:  
  
“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs,



lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

**Reason:** To maintain public infrastructure.

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

#### **17. 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.

#### **18. Hours of work**

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12 noon Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 7.30am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon and 1.00pm.

Where it is necessary for works to occur outside of these hours (ie) placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by the RTA from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site, approval for such activities will be subject to the issue of an “outside of hours works permit” from Council as well as

notification of the surrounding properties likely to be affected by the proposed works.

**Note:** Failure to obtain a permit to work outside of the approved hours will result in on the spot fines being issued.

**Reason:** To ensure reasonable standards of amenity for occupants of neighbouring properties.

## 19. Statement of compliance with Australian Standards

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

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

## 20. Site notice

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

**Reason:** To ensure public safety and public information.

## 21. Dust control

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with

the next stage of development to minimise the amount of time the site is left cut or exposed

- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

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

## 22. Excavation

A contractor with specialist excavation experience must undertake the excavations for the development.

**Reason:** To ensure the safety and protection of property.

## 23. Use of road or footpath

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

**Reason:** To ensure safety and amenity of the area.

## 24. 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.

## 25. 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.

**26. 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.

**27. Recycling of building material (general)**

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

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

**28. Road reserve safety**

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (2002) "Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

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

**29. Services**

Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is

the applicants' full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

**Reason:** Provision of utility services.

### **30. Temporary disposal of stormwater runoff**

During construction, stormwater runoff must be disposed of in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.

**Reason:** To preserve and enhance the natural environment.

### **31. 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.

### **32. Drainage to existing system**

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the existing site drainage system and generally in accordance with the submitted concept stormwater drainage plans by Whipps Wood Consulting (refer Project No. 2010-0334, Drawing No. HDA02, Amendment No. P1, dated 13/9/2010). The installation of new drainage components must be completed by a licensed contractor in accordance with AS3500.3 (Plumbing Code) and the BCA. No stormwater runoff is to be placed into the Sydney Water sewer system. If an illegal sewer connection is found during construction, the drainage system must be rectified to the satisfaction of Council and Sydney Water.

**Reason:** To protect the environment.

### **33. Grated drain at garage**

A 200mm wide grated channel/trench drain, with a heavy-duty removable galvanised grate is to be provided in front of the garage door to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

**Reason:** Stormwater control.

#### 34. **Approved tree works**

Approval is given for the following works to be undertaken to trees on the site:

<b>Schedule</b>	<b>Tree/Location</b>	<b>Approved tree works</b>
	<i>Leptospermum petersonii</i> (Lemon Scented Tea Tree) Rear garden	Removal
	<i>Murraya paniculate</i> (Orange Jessamine) Adjacent to western site boundary	Removal

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

**Reason:** To ensure that the development is in accordance with the determination.

#### 35. **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.

#### 36. **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.

#### 37. **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.

#### 38. **On site retention of waste dockets**

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

- Each docket is to be an official receipt from a facility authorised to accept the material type, for disposal or processing.

- This information is to be made available at the request of an Authorised Officer of Council.

**Reason:** To protect the environment.

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

#### **39. Compliance with BASIX Certificate**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No.A91255 have been complied with.

**Reason:** Statutory requirement.

#### **40. Completion of landscape works**

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent.

**Reason:** To ensure that the landscape works are consistent with the development consent.

#### **41. Certification of drainage works (alterations/additions)**

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

- the components of the new drainage system have been installed by a licensed contractor in accordance with the National Plumbing and Drainage Code AS3500.3 (2003) and the Building Code of Australia
- the stormwater drainage works have been completed in accordance with the approved Construction Certificate drainage plans and Ku-ring-gai Water Management DCP 47

**Note:** Evidence from the plumbing contractor or a qualified civil/hydraulic engineer confirming compliance with this control is to be provided to Council prior to the issue of an Occupation Certificate.

**Reason:** To protect the environment.

#### **42. Swimming pool (part 1)**

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

- C1 1. Access to the pool/spa shall be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act, 1992:

- (a) The pool shall not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed; and
- (b) The barrier is to conform to the requirements of AS 1926-1 2007 Fences and Gates for Private Swimming Pools.

**Reason:** To ensure the safety of children.

2. Any mechanical equipment associated with the swimming pool and/or spa pool shall be located in a sound-attenuating enclosure and positioned so that it is setback a minimum of 2m from the boundary of any adjoining premises. The Principal Certifying Authority shall be satisfied that the sound levels associated with the swimming pool/spa filtration system and associated mechanical equipment do not exceed 5dB(A) above the background noise level at the boundaries of the site.

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

#### **43. Pool overflow to sewer**

Prior to issue of the Occupation Certificate a high level overflow pipe is to be provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. This requirement is to collect stormwater overflow from the swimming pool surface only. A certificate from the installer, indicating compliance with this condition, must be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

**Reason:** To provide satisfactory drainage.

#### **CONDITIONS TO BE SATISFIED AT ALL TIMES:**

#### **44. Bush fire protection**

##### **Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

1. 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:** Bushfire safety.



**45. Swimming pool (part 2)**

At all times:

1. Access to the swimming pool must be restricted by fencing or other measures as required by the Swimming Pools Act 1992.
2. Noise levels associated with spa/pool pumping units shall not exceed 5dB(A) at the boundaries of the site.
3. Devices or structures used for heating swimming pool water must not be placed where they are visible from a public place.
4. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or storm water drainage system is prohibited. These waters are to discharge via a permanent drainage line into Sydney Water's sewer in accordance with Australian Standard AS3500.2 section 10.9. Permission is to be obtained from Sydney Water prior to the emptying of any pool to the sewer.
5. Lighting from the swimming pool and other communal facilities shall not detrimentally impact the amenity of other premises and adjacent dwellings.

**Reason:** Health and amenity.

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

*Against the Resolution:*              *Councillors Holland, Keays and Anderson*

**MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN****369 Wild & Exotic Animals Performing**

File: S02447

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

**M Bond  
J Storailer  
A Brittan**

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

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

**Resolved:**

(Moved: Councillors Hall/Keays)

That the above Notice of Rescission as printed be adopted.

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

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

**GENERAL BUSINESS** (cont)

370

**National Trust of Australia - Corporate Membership**

File: S02792

To advise Council of a request from the National Trust of Australia to renew Council's Gold Corporate Membership of the Trust for 2010-2011 for \$2,500.

**Councillor Malicki withdrew  
during debate on the item**

**Resolved:**

(Moved: Councillors Anderson/Malicki)

That Council not proceed to renew the Gold Corporate Membership of the National Trust of Australia for 2010-2011 for \$2,500.

**CARRIED UNANIMOUSLY**

**Councillor McDonald withdrew**

371 **National Trust Heritage Festival 2011 - Sponsorship Proposal**

File: S05650

To advise Council of a request from the National Trust of Australia for sponsorship for the National Trust Heritage Festival 2011, by placing a half page advertisement in the festival program.

**Resolved:**

(Moved: Councillors Anderson/Szatow)

That Council sponsor the National Trust of Australia for \$3,200 to advertise in the 2011 National Trust Heritage Festival program.

**CARRIED UNANIMOUSLY**

**Councillor Malicki returned**

**Councillor McDonald returned**

372 **Carlotta Depot Tenders**

File: S08283/2

To report on the results of the public tender and to seek Council's approval to accept the preferred tender for these works.

**Resolved:**

(Moved: Councillors Duncombe/Holland)

- A. That Council accept the tender from Ross Mitchell & Associates to carry out the Stage 1 remediation works at the Carlotta Avenue Council Depot.
- B. That the execution of all documents, including the affixing of Council's Seal relation to the tender be delegated to the Mayor and General Manager.

**CARRIED UNANIMOUSLY**

**MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN (cont)**

*Council adjourned into Closed Session for  
discussion of Confidential Material  
after a Motion moved by  
Councillors Malicki and Duncomber  
was CARRIED UNANIMOUSLY*

373

**Neighbourhood Safer Places in Ku-ring-gai Bushfire Prone Areas**

File: S02546

**Notice of Motion from Councillor Tony Hall dated 6 October 2010**

I fully support the call by Ku-ring-gai Mayor Cross to be prepared for the coming bushfire period but Councils too must share the responsibility for the safety of residents and their property, in such dangerous periods.

As a large Council area subject to bushfire threat every summer, Ku-ring-gai Council needs to identify, designate and maintain Neighbourhood Safer Places or NSPs in those areas subject of bushfire intrusion. I recall in the 1994 bushfires in St Ives as a Councillor then, I was asked to open Toolang Road Oval, St Ives for local residents' cars threatened by fire to their homes below the National Park along the bushfire rim, but the Council's staff refused to unlock the gates. Yet there are still no NSPs in North St Ives, along Warrimoo Avenue, for instance.

Since 2009 as a result of the tragic Victorian Bushfires, the NSW Rural Fire Service has implemented "places of last resort" or NSPs as described in the background information under separate cover, in many NSW Councils including Hornsby, Willoughby and Lane Cove Council areas. Ku-ring-gai has been added and a list of sites are included in the Councillors Additional Agenda Information but are not considered to be comprehensive enough.

Designated NSP areas must meet the NSW Rural Fire Service's radiant heat criteria especially in high risk areas on the outskirts of large metropolitan areas such as Sydney and I believe from past experience as already mentioned, Ku-ring-gai too should ensure all its affected bushfire prone areas have accessible NSPs.

I move:

"That Ku-ring-gai Council seek a review with the NSW Rural Fire Service's 'Neighbourhood Safer Places' program to assess whether any further accessible sites may be nominated from those already designated and reported back to Council."

*Council resolved to return to Open Council  
after a Motion moved by Councillors Anderson and Duncombe  
was CARRIED UNANIMOUSLY*

**Resolved:**

(Moved: Councillors Hall/Anderson)

That the above Notice of Motion, as amended, be adopted.

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

*Against the Resolution:           Councillors Malicki and Hardwick*

374     **Alcohol Free Zones - Lindfield Library & Queen Elizabeth Oval Sites**

File: S02390

**Notice of Motion from Councillor Cheryl Szatow dated 13 October 2010**

I move:

1.     That Council resolve to declare the Lindfield Library site an alcohol free zone. The area to be the external area of KOPWA, the Library, KYDS, the tennis courts and their surrounds and the Seniors Community Centre.
2.     That a report be submitted regarding the prohibition of alcohol at Queen Elizabeth Oval site in West Lindfield.
3.     That the Police be informed of Council's resolution and seek their support for the policing of the proposed new Alcohol Free Zones with regard to No.1 above.

**Resolved:**

(Moved: Councillors Szatow/Keays)

That the above Notice of Motion, as amended, be adopted.

**CARRIED UNANIMOUSLY**

375     **Formation of Budget Review Working Group**

File: FY00260/4

**Notice of Motion from Councillor Rakesh Duncombe dated 22 October 2010**

I move:

- A.     That a Budget Review Working Group be established.
- B.     That the composition of the Budget Review Working Group be a chair person, one Councillor from each Ward, General Manager, Directors and Manager Finance.

- C. That Council elect a Chairperson of the Group.
- D. That the first meeting of the Budget Review Working Group be conducted after 18 November 2010 but before close of 2010 Council's meeting cycle.
- E. That a charter for the Budget Review Working Group be developed and presented to the first meeting of the Group for adoption.
- F. That non-elected Councillors can attend meetings as observers or alternate.

**Resolved:**

(Moved: Councillors Duncombe/McDonald)

- A. That the above Notice of Motion, as amended, be adopted.
- B. That the members of the Budget Review Working Group be as follows:

Roseville Ward	Councillor Rakesh Duncombe
St Ives Ward	Councillor Tony Hall
Wahroonga Ward	Councillor Duncan McDonald
Comenarra Ward	Councillor Elaine Malicki
Gordon Ward	Councillor Cheryl Szatow

- C. That the Chairperson of the Budget Review Working Group be Councillor Rakesh Duncombe.

**CARRIED UNANIMOUSLY**

376

**Council Policy on Sporting Projects requiring Council Funding**

File: DA0727/10

**Notice of Motion from Councillor Tony Hall dated 1 November 2010**

Council is from time to time approached by organisations having specific interests in various sporting pursuits to provide new facilities and /or enhance the facilities currently in existence. While these facilities may be desirable, especially for the persons following that pursuit, the provision of scarce Council funds must be assessed vis a vis the competing demands of other interested groups, and Council obligations for the majority of its ratepayers, especially the aged who constitute a significant group with needs which are currently not met, but who are not as vocal and active in their request for funding.

As a consequence, all sporting projects requests for funding should meet commercial evaluation criteria, which are Return on Investment (ROI) AND Payback Period. This would mean that any sporting project proposed must demonstrate in its proposal a Business Plan which accurately estimates the Total Capital Cost in Present Value terms, Capital Cost per period (if extended payment is involved), Expected Council

Funding required, Expected Gross Revenue per period, Expected Expenditures per period, and Surplus per period – with a consolidated evaluation of the recovery of all Capital Costs over a nominated period, which should not be greater than 15 years. The provision of non-cost Council land should be valued at current market prices for comparable surrounding land and/or its alternative use. Any deficit in the evaluation in both the Capital Cost and/or the Annual Surplus must be met by the proposing organisation.

As a concerned Councillor I seek to apply this policy proposal to the current Expressions of Interest (EOI) tender for the West Pymble Aquatic Centre construction, which closes on 9 November 2010, see attachments under separate cover.

I move:

"All proposals for new Sporting Facilities and/or enhancements requiring public tender must be assessed under Commercial Criteria as to Rate of Return and Payback Period of Capital provided by Council. If a proposal does not meet the required criteria, the proposers will be asked to provide the deficiency in Capital and/or running costs so as to provide the Council's criteria of Rate of Return and Payback Period. If this is not provided then the proposal may be rejected."

**Motion:**

(Moved: Councillors Hall/Hardwick)

That the above Notice of Motion, as amended, be adopted.

*For the Motion:*                      *Councillors Hall and Hardwick*

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

The above Notice of Motion when  
put to the vote was LOST

*The Meeting closed at 11.40pm*

The Minutes of the Ordinary Meeting of Council held on 9 November 2010 (Pages 1 - 39) were confirmed as a full and accurate record of proceedings on 23 November 2010.

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General Manager

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Mayor / Chairperson