

# **PART FIVE**

## **Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 22 June 2010.**

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### **APOLOGIES**

### **ACKNOWLEDGEMENT OF LAND**

### **DECLARATIONS OF INTEREST**

#### **Pecuniary Interests**

#### **Non Pecuniary – Significant Interests**

#### **Non Pecuniary – Less than Significant Interests**

<b>ITEM</b>	<b>TITLE</b>	<b>PAGE</b>
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## **PART ONE**

### **1. WASTE AND RECYCLING SERVICES**

**No reports this round**

### **2. ENVIRONMENTAL PLANNING**

**2.1 Relocation of Grey-Headed Flying-Foxes from the Royal Botanical Gardens  
Sydney**

**2.2 Metropolitan Development Program 2008/2009 Report**

**2.3 Georges River Combined Councils Committee Meeting Update**

**2.4 Energy Efficiency of Australian Homes**

**2.5 Declaration of Coolatai Grass as a Class 3 Noxious Weed in Campbelltown  
Local Government Area**

**2.6 Outcomes of the Public Exhibition of the Draft Marsden Park Plan of  
Management**

### **3. DEVELOPMENT SERVICES**

**3.1 Development Services Section Application Statistics - May 2010**

**3.2 Lot 2 DP 706701, Lot 21 DP 733505 and Lot 4035 DP 790757, Demetrius Road  
and Anthony Drive, Rosemeadow - Staged development for residential  
subdivision, including construction of Stage 1, creating 72 allotments, roads  
and associated site works.**

## **PART TWO**

- 3.3 Nos. 27-29 Carlisle Street, Ingleburn - Demolition of existing dwellings and construction of a commercial building**

## **PART THREE**

- 3.4 No. 9 Austool Place, Ingleburn - Lot 201 DP1123315**
- 3.5 No. 395 Pembroke Road, Minto - Subdivision of an industrial estate into seven allotments and dedication of estate access road as a public road**

## **PART FOUR**

- 3.6 Nos. 12-14 King Street Campbelltown - Demolition of existing dwellings and construction of a residential apartment building**

## **PART FIVE**

- 4. COMPLIANCE SERVICES**
  - 4.1 Legal Status Report**
- 5. GENERAL BUSINESS**
- 18. CONFIDENTIAL ITEMS**
  - 18.1 Confidential Information Relating to Various Items on the Planning and Environment Agenda 22 June 2010**

## Minutes of the Planning and Environment Committee held on 22 June 2010

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**Present**

- Councillor R Matheson (Chairperson)
- Councillor J Bourke
- Councillor G Greiss
- Councillor R Kolkman
- Councillor M Oates
- Councillor R Thompson
- General Manager - Mr P Tosi
- Director Planning and Environment - Mr J Lawrence
- Manager Development Services - Mr J Baldwin
- Manager Compliance Services - Mr A Spooner
- Manager Waste and Recycling Services - Mr P Macdonald
- Manager Community Resources and Development - Mr B McCausland
- Senior Development Planner - Mr A Macgee
- Environmental Planning Coordinator - Ms R Winsor
- Corporate Support Coordinator - Mr T Rouen
- Executive Assistant - Mrs K Peters

**Apology (Greiss/Thompson)**

That the apology from Councillor Rowell be received and accepted.

**CARRIED**

**Acknowledgement of Land**

An Acknowledgement of Land was presented by the Chairperson Councillor Matheson.

**DECLARATIONS OF INTEREST**

There were no Declarations of Interest at this meeting.

## 4. COMPLIANCE SERVICES

### 4.1 Legal Status Report

#### Reporting Officer

Manager Compliance Services

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#### Attachments

Nil

#### Purpose

To update Council on the current status of the Planning and Environment Division's legal matters.

#### Report

This report contains a summary of the current status of the Division's legal matters relating to:

- The Land and Environment Court;
- The District Court;
- The Local Court; and
- Matters referred to Council's Solicitor for advice.

A summary of year-to-date costs and the total number of actions are also included.

<b>1. <i>Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications</i></b>
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<b>Total ongoing Class 1 DA Appeal Matters (as at 11/06/2010)</b>	<b>2</b>
<b>Total completed Class 1 DA Appeal Matters (as at 11/06/2010)</b>	<b>7</b>
<b>Costs from 1 July 2009 for Class 1 DA Appeal Matters:</b>	<b>\$172,448.28</b>

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**1 (a) John Galluzzo**

**Issue:** Appeal under Section 56A of the Land and Environment Court Act 1979 against Commissioner Bly's decision of 18 December 2009 to dismiss the applicant's appeal against Council's refusal of Development Application 1972/2007/DA-C for the extensions to a childcare centre.

**Property:** Pt Lot 101 DP 602622 No.1 Bloomfield Road, Denham Court.

**Property Owner:** John Galluzzo

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**File No:** 1972/2007/DA-C (Court File 10/10099)  
**Court Application Filed:** 17 February 2010  
**Applicant:** John Galluzzo  
**Costs Estimate:** \$20,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)  
**Costs to date:** No invoices submitted to date  
**Status:** Proceedings completed. Awaiting solicitors final costs.

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**Action Since Last Meeting** The matter was heard on 15 June 2010. Verbal advice from Council's solicitor indicated that the court dismissed the appeal and awarded to Council. Waiting on written judgment.

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**1 (b)**

**Angelo Skagias and Nick Skagias**

**Issue:** Deemed refusal of a Section 96 application to modify Development Applications 2334/2007/DA-C for the demolition of existing dwelling and construction of a four storey commercial building.  
**Property:** Lot 6 SEC 4 DP 2913 No. 34 Carlisle Street Ingleburn.  
**Property Owner:** Mr Angelo Skagias and Mr Nick Scagias  
**File No:** 2334/2007/DA-C (Court File 10156 of 2010)  
**Court Application Filed:** 9 March 2010  
**Applicant:** Mr. Angelo Skagias and Mr. Nick Skagias  
**Hearing date:** 12 and 13 July 2010  
**Costs Estimate:** \$20,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)  
**Costs to date:** No invoices submitted to date  
**Status:** Ongoing.

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**Action Since Last Meeting** Listed for hearing on 12 and 13 July 2010.

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<b>2. Land and Environment Court Class 1 Matters – Appeals Against Council's Issued Orders/Notices</b>
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<b>Total ongoing Class 1 Order/Notice Appeal Matters (as at 11/06/2010)</b>	<b>1</b>
<b>Total completed Class 1 Order/Notice Appeal Matters (as at 11/06/2010)</b>	<b>0</b>
<b>Costs from 1 July 2009 for Class 1 Order/Notices Appeal Matters:</b>	<b>\$2,218.14</b>

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**2 (a)**

**Anthony Powell**

**Issue:**

Appeal against the terms of Council's Order No's. 1 and 12 served under Section 121B of the Environmental Planning and Assessment Act 1979, requiring the applicant to cease use of a garage being used for habitable purposes and reinstate the garage for its approved use.

**Property:**

Lot 105 DP 544373 No. 9 Aubrey Street, Ingleburn.

**Property Owner:**

Mr. Anthony Powell and Ms. Christine Lamont

**File No:**

1359/2009/N-EPA (Court File 10138 of 2010)

**Court Application Filed:**

2 March 2010

**Applicant:**

Mr. Anthony Powell

**Costs Estimate:**

\$10,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:**

\$2,218.14

**Status:**

Proceedings completed. Awaiting solicitors final costs.

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**Action Since Last Meeting**

The matter was before the Court for Directions hearing where By consent the Applicant agreed to Orders requiring the terms of Council's Order to be complied with by 20 November 2010.

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**3. Land and Environment Court Class 4 Matters – Non-Compliance with Council Orders / Notices or Prosecutions**

Total ongoing Class 4 matters before the Court (as at 11/06/2010)  
Total completed Class 4 matters (as at 11/06/2010)  
Total ongoing Class 4 matters in respect of costs recovery  
(as at 11/06/2010) these matters will be further reported on completion  
Costs from 1 July 2009 for Class 4 matters \$4,50

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**4. Land and Environment Court Class 5 - Criminal enforcement of alleged pollution offences and various breaches of environmental and planning laws.**

Total ongoing Class 5 matters before the Court (as at 11/06/2010)  
Total completed Class 5 matters (as at 11/06/2010)  
Total ongoing Class 5 matters in respect of costs recovery  
(as at 11/06/2010) these matter will be further reported on completion  
Costs from 1 July 2009 for Class 5 matters \$33,20

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**5. Land and Environment Court Class 6 - Appeals from convictions relating to environmental matters**

Total ongoing Class 6 Matters (as at 11/06/2010)  
Total completed Class 6 Matters (as at 11/06/2010)  
Costs from 1 July 2009 for Class 6 Matters :

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**6. Land and Environment Court Tree Dispute Matters – Applications filed under the Trees (Disputes Between Neighbours) Act 2006**

Total ongoing Tree Dispute Matters (as at 11/06/2010)  
Total completed Tree Dispute Matters (as at 11/06/2010)  
Costs from 1 July 2009 for Tree Dispute Matters :

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**7. District Court – Matters on Appeal from lower Courts or Tribunals not being environmental offences.**

**Total ongoing Appeal matters before the Court (as at 11/06/2010)**  
**Total completed Appeal matters (as at 11/06/2010)**  
**Total ongoing Appeal matters in respect of costs recovery**  
**(as at 11/06/2010) these matters will be further reported on completion**  
**Costs from 1 July 2009 for District Court Matters** :

**8. Local Court Prosecution Matters**

The following summary lists the current status of the Division's legal matters before the Campbelltown Local Court.

**Total ongoing Local Court Matters (as at 11/06/2010)** 14  
**Total completed Local Court Matters (as at 11/06/2010)** 104  
**Costs from 1 July 2009 for Local Court Matters** \$19,662.22

**File No:** LP 101/09 - Penalty Notice Court Election  
**Offence:** Unregistered Dog - not dangerous dog  
**Act:** Companion Animals Act  
**Costs to date:** \$1,300.00  
**Status – Completed:** The matter was before the Court for hearing on 19 April 2010 where the defendant did not appear. The Court granted an application to hear the matter in the offender's absence and after considering the evidence and submissions found the offence proved, imposed a fine of \$200 and made an order for costs in the sum of \$1,376.00.

Subsequently the defendant made an application for annulment of the Court orders and the application was determined on 1 June 2010. The application was granted and the defendant entered a guilty plea with explanation. The Magistrate found the offence proved and dealt with it under Section 10 of the Crimes (Sentencing Procedure) Act. No fine was imposed and given the defendant's financial and family circumstances, Council's legal costs were not awarded. The Defendant was ordered to pay Court costs of \$76.00.

**File No:** LP 10/10 - Penalty Notice Court Election  
**Offence:** Deposit litter (cigarette butt) from vehicle  
**Act:** Protection of the Environment Operations Act  
**Final Costs:** \$400.00  
**Status – Completed:** The matter was before the Court for hearing on 14 May 2010 where the accused, Eric Philip Cook, changed his

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plea to guilty with explanation. After considering the evidence and submissions the Magistrate found the offence proved and imposed a \$200 fine and made an order for \$76. Council made an application for an additional order for its legal costs in the sum of \$400, however, the Magistrate was not inclined to make the order due to the defendant's financial and family circumstances.

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**File No:** LP 17/10 – Enforcement Order Court Election  
**Offence:** Stop on/near children's crossing – school zone  
**Act:** Road Rules 2008  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter is listed for hearing on 9 July 2010.

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**File No:** LP 18/10 - Penalty Notice Court Election  
**Offence:** Uncontrolled Dog in a public place - not dangerous dog  
**Act:** Companion Animals Act  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court for hearing on 18 May 2010 where Council withdrew the matter, as Council was unable to offer any evidence to prove an essential element of the offence that the dog was on a public place.

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**File No:** LP 19/10 - Enforcement Order Court Election  
**Offence:** Deposit litter (cigarette) from vehicle  
**Act:** Protection of the Environment Operations Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was before the Court for first mention on 13 April 2010 where the Defendant entered a not guilty plea. The proceedings were adjourned to 25 June for hearing.

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**File No:** LP 24/10 - Penalty Notice Court Election  
**Offence:** Pollute waters (excavated material deposited on roadway)  
**Act:** Protection of the Environment Operations Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was before the Court for first mention on 13 April 2010 where the Defendant entered a not guilty plea. The proceedings were adjourned to 29 June for hearing.

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**File No:** LP 25/10 – Penalty Notice Court Election  
**Offence:** Stop on path/strip in built-up area  
**Act:** Road Rules 2008  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was listed for first mention on 13 April 2010 where the accused entered a not guilty plea. The matter was heard on the 17 June 2010. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10 of the Crimes (Sentencing Procedure) Act no conviction be recorded.

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**File No:** LP 26/10 – Penalty Notice Court Election  
**Offence:** Disobey no stopping signs  
**Act:** Road Rules 2008  
**Final Costs:** \$0.00  
**Status – Completed:** Matter was before the Court for first mention on 11 May 2010 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10 of the Crimes (Sentencing Procedure) Act no conviction be recorded.

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**File No:** LP 27/10 – Penalty Notice Court Election  
**Offence:** Not stand vehicle in marked parking space  
**Act:** Local Government Act  
**Costs to date:** \$0.00  
**Status – Completed:** The matter was before the Court for mention on 15 June 2010 where the accused, Stefan Adrian Paraschiv, entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and imposed a \$100 fine and made an order for \$76.

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**File No:** LP 28/10 – Penalty Notice Court Election  
**Offence:** Stand vehicle in disabled persons parking space without authority  
**Act:** Road Rules 2008  
**Costs to date:** \$0.00  
**Status – New Matter:** Listed for first mention on 29 June 2010.

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**File No:** LP 29/10 – Penalty Notice Court Election  
**Offence:** Development undertaken without development consent  
**Act:** Environmental Planning and Assessment Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** Matter was listed for first mention on 18 May 2010 where the Defendant entered a not guilty plea. The proceedings have been adjourned for hearing on 13 August 2010.

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**File No:** LP 30/10 – Penalty Notice Court Election  
**Offence:** Pollute Waters - Corporation  
**Act:** Protection of the Environment Operations Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was listed for first mention on 25 May 2010 where the accused entered a not guilty plea. The matter has been adjourned to 16 July 2010 for hearing.

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**File No:** LP 31/10 – Penalty Notice Court Election  
**Offence:** Pollute Waters - Corporation  
**Act:** Protection of the Environment Operations Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was listed for first mention on 25 May 2010 where the accused entered a not guilty plea. The matter has been adjourned to 16 July 2010 for hearing.

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**File No:** LP 32/10 – Penalty Notice Court Election  
**Offence:** Pollute Waters - Corporation  
**Act:** Protection of the Environment Operations Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was listed for first mention on 25 May 2010 where the accused entered a not guilty plea. The matter has been adjourned to 16 July 2010 for hearing.

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**File No:** LP 33/10 – Penalty Notice Court Election  
**Offence:** Development not in accordance with development consent  
**Act:** Environmental Planning and Assessment Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was listed for first mention on 25 May 2010 where the accused entered a not guilty plea. The matter has been adjourned to 16 July 2010 for hearing.

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**File No:** LP 34/10 – Penalty Notice Court Election  
**Offence:** Development not in accordance with development consent  
**Act:** Environmental Planning and Assessment Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was listed for first mention on 25 May 2010 where the accused entered a not guilty plea. The matter has been adjourned to 16 July 2010 for hearing.

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**File No:** LP 35/10 – Penalty Notice Court Election  
**Offence:** Stand vehicle in area longer than allowed  
**Act:** Local Government Act  
**Costs to date:** \$0.00  
**Status – Completed:** Matter was before the Court for first mention on 8 June 2010 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10 of the Crimes (Sentencing Procedure) Act no conviction be recorded.

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## 9. Matters Referred to Council's Solicitor for Advice

The following summary lists the status of matters referred to Council's Solicitors for advice on questions of law, the likelihood of appeal or prosecution proceedings being initiated, and/or Council liability.

**Total Advice Matters (as at 11/06/2010)**  
**Costs from 1 July 2009 for Advice Matters**

**13**  
**\$51,727.22**

## 10. Legal Costs Summary

The following summary lists the Planning and Environment Division's net Legal Costs for the 2009/2010 period.

<b>Relevant Attachments or Tables</b>	<b>Costs Debit</b>	<b>Costs Credit</b>
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$172,448.28	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$2,218.14	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or Prosecutions	\$4,561.37	\$0.00
Class 5 Land and Environment Court - Pollution and Planning prosecution matters	\$33,232.72	\$0.00
Class 6 Land and Environment Court - appeals from convictions relating to environmental matters	\$0.00	\$0.00
Land and Environment Court tree dispute between neighbours matters	\$0.00	\$0.00
District Court Appeal matters	\$0.00	\$0.00
Local Court Prosecution matters	\$19,662.22	\$1,650.00
Matters referred to Council's Solicitor for Legal Advice	\$51,727.22	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$283,849.95	\$1,650.00
<b>Overall Net Costs Total (GST exclusive)</b>	<b>\$282,199.95</b>	

## Officer's Recommendation

That the information be noted.

**Committee's Recommendation: (Bourke/Thompson)**

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 29 June 2010 (Matheson/Kolkman)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 111**

That the Officer's Recommendation be adopted.

## **5. GENERAL BUSINESS**

Nil.

### **Confidentiality Motion: (Bourke/Thompson)**

Due to the confidential nature of the business and the Committee's opinion that the public proceedings of the Committee would be prejudicial to the public interest, the Committee in accordance with Section 10 of the Local Government Act 1993 resolves to exclude the public from the meeting during discussions on this item.

**CARRIED**

## **18. CONFIDENTIAL ITEMS**

### **18.1 Confidential Information Relating to Various Items on the Planning and Environment Agenda 22 June 2010**

#### **Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

R Matheson  
CHAIRPERSON