

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 10 AUGUST 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)
Director Corporate (John Clark)
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)
Mayor's PA (Sigrid Banzer)

The Meeting commenced at 7.02pm

The Mayor offered the Prayer

DECLARATIONS OF INTEREST

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

The Mayor, Councillor Ian Cross advised that he is a member of the Joint Regional Planning Panel. However, he believes that there is no Conflict of Interest regarding Item NM.1 - Joint Regional Planning Panel.

Councillor Elaine Malicki advised that she is a member of the Joint Regional Planning Panel. However, it is her understanding that there is no Conflict of Interest regarding Item NM.1 - Joint Regional Planning Panel.

219 CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499

Resolved:

(Moved: Councillors Szatow/McDonald)

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:

- C.1 General Manager's Performance Review
- C.2 Proposal to Acquire Open Space - Killara

CARRIED UNANIMOUSLY

ADDRESS THE COUNCIL

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

B Anderson

DOCUMENTS CIRCULATED TO COUNCILLORS

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

Late Items: **Refer MM.1 - First Female Mayor of Ku-ring-gai - Laura Bennett**

Refer MM.2 - VALE Richard Basto

Refer GB.5 - B2 Lands South Turramurra - Project Delivery Agreement - Memorandum by Director Strategy and Environment dated 3 August 2010 to Councillors, Directors and Libraries with a copy of the attachment to the report which was not included with the Business Papers.

Memorandum: **Refer GB.14 - Proposed Modifications to the Codes SEPP** - Memorandum by Director Strategy and Environment dated 10 August 2010 to Councillors and Directors in relation to adding additional comments to the draft submission.

Confidential Items: **Refer C.1 General Manager's Performance Review**
Refer C.2 Proposal to Acquire Open Space - Killara

Councillors Information: **Tree Replacement Comenarra Ward** - Memorandum by Director Operations dated 2 August 2010 in answer to a Question Without Notice raised by Councillor Elaine Malicki at the Ordinary Meeting of Council held 20 July 2010.

Pindone Poison - Memorandum by Director Operations dated 2 August 2010 in answer to a Question Without Notice raised by Councillor Tony Hall at the Ordinary Meeting of Council held 27 July 2010.

CONFIRMATION OF MINUTES220 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 27 July 2010
Minutes numbered 213 to 218

Resolved:

(Moved: Councillors Keays/Szatow)

That Minutes numbered 213 to 218 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR221 **First Female Mayor of Ku-ring-gai - Laura Bennett**

File: S06915

Ku-ring-gai Council has traditionally remembered with fondness those men and women who have served this Local Government Area as Mayor (and formally known as President) for the past 103 years. From the first President of Ku-ring-gai, Mr William Cowan who led the Council in 1907 through to the previous Mayor, Councillor Elaine Malicki.

This custom is steeped in tradition and is most fitting in providing some context to the wonderful history of this Local Government Area.

Given this background, I have always regretted that there is one notable omission as I peruse the walls of the Council Chamber to my left and to my right.

Laura Bennett became Mayor in September 2000 and served for a period of two years through to September 2002. Mayor Bennett will be remembered for eternity as the first female Mayor of this Local Government Area, elected to the role some 92 years after Ku-ring-gai Council came into being. Whilst I am pleased to say that since her election we have now had three female Mayors (Councillor Adrienne Ryan elected 2004 and Councillor Elaine Malicki elected 2005 and 2008), I believe that the absence of a portrait for the first female Mayor of this Council area is a regrettable situation.

Resolved:

- A. That the Mayor of Ku-ring-gai write to ex-Mayor Laura Bennett requesting that she reconsider her decision not to have a mayoral portrait hanging in the Council Chamber.

- B. If ex-Mayor Bennett declines this request, that Council erect a plaque or framed scroll to be placed in the rightful position in the Council Chambers to indicate that she was the first female Mayor of this Council.

CARRIED UNANIMOUSLY

222

VALE Richard Basto

File: S04813

On behalf of Ku-ring-gai Council I would like to pay tribute to the life of Richard Basto of Wahroonga who passed away recently.

Richard was well known in the Ku-ring-gai community, having served as a Wahroonga Ward Alderman on Council from 1960 to 1965 and again from 1969 to 1974.

He also served as Deputy Mayor in 1970 and 1973.

Richard chaired the Wahroonga Ward Development Committee and Wahroonga Ward Planning Committee, and was a member of many Council committees including Parking, Civil Defence and Waste Disposal.

He was also a member of the Wahroonga Progress Association and a foundation member of the Ku-ring-gai Society and editor of its journal.

On behalf of Council, I offer our sincere condolences to Richard's family.

Resolved:

- A. That this Mayoral Minute be received and noted.
- B. That we stand for a minute's silence to pay our respects to the life of Richard Basto.
- C. That the Mayor write to Richard's family on behalf of Council to express our sympathy for their loss.
- D. That Council acknowledge Richard's co-ordinating role in the National Servicemen's Association.

CARRIED UNANIMOUSLY

One Minute Silence was observed

PETITIONS

223 **Animals Performing in Webers Circus at St Ives Showground -
(Two Hundred & Five [205] Signatures)**

File: S02447

"We, the undersigned, would like to draw your attention to the pressing issue faced by Webers Circus while showing here at St Ives Showground.

As it is Council policy, Webers Circus is not allowed to showcase its performing Miniature Ponies and performing Canines in the live performance. As this is a key feature of the Circus in which we love to present to audiences, we are petitioning for the policy to be amended to allow our Ponies and Canines to perform in the Circus."

Resolved:

(Moved: Councillors Keays/Szatow)

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

CARRIED UNANIMOUSLY

REPORTS FROM COMMITTEES

Minutes of Ku-ring-gai Traffic Committee

File: S02110
Meeting held 22 July 2010
Minutes numbered KTC4 to KTC8

224 **General Matter Items under Delegated Authority**

File: S02738

Vide Minute No KTC4

Advice on matters considered under Delegated Authority.

Resolved:

(Moved: Councillors Keays/Anderson)

That the information regarding traffic facilities approved during February 2010 to June 2010 be noted.

CARRIED UNANIMOUSLY

225 **2011/2012 Nation Building Black Spot Program**

File: S06118/4

Vide Minute No KTC5

To consider sites for inclusion in the 2011/2012 Nation Building (Federal) Black Spot Program.

Resolved:

(Moved: Councillors Keays/Anderson)

That application be made to the 2011/2012 Nation Building Black Spot Program for the projects listed in the contents of the report.

CARRIED UNANIMOUSLY

226 **General Matter - Knox Garden Day 2010**

File: S02250

Ward: Wahroonga
Electorate: Ku-ring-gai
Vide Minute No KTC6

To consider a request from Knox Grammar Senior School Mothers' Group to hold its annual Knox Garden Day in Cleveland and Water Streets, Warrawee, on Friday, 10 September 2010.

Resolved:

(Moved: Councillors Keays/Anderson)

That the request from Knox Grammar Senior School Mothers' Group for the closure of Cleveland and Water Streets on Friday, 10 September 2010 be deferred for further discussions with the school, to enable the school to consider an alternative location or shorter closure, which would not directly impact on school traffic or bus routes.

CARRIED UNANIMOUSLY

227

General Matter - Sydney Adventist Hospital Fun Run

File: S02158

Ward: Comenarra
Electorate: Ku-ring-gai
Vide Minute No KTC7

To consider a request from the Sydney Adventist Hospital Foundation for a Fun Run on Sunday, 17 October 2010.

Resolved:

(Moved: Councillors Keays/Anderson)

- A. That approval be given to Sydney Adventist Hospital Foundation to close Lucinda Avenue between Pacific Highway and Fox Valley Road for three hours in the morning to conduct its annual Fun Run on Sunday, 17 October 2010, following the routes shown on Sketch Plan No. SAH Fun Run/KTC/07/10, subject to the event organisers observing the following conditions:
1. The Roads and Traffic Authority approving the Traffic Management Plan submitted by the Sydney Adventist Hospital Foundation.
 2. The event organisers implementing the Traffic Management Plan approved by the Roads and Traffic Authority.
 3. The event organisers implementing the Traffic Control Plan approved by RTA when closing Lucinda Avenue.
 4. The event organisers paying Council fee of \$1,330 for processing the application and advertising road closure in the local newspaper.
 5. That closure of Lucinda Avenue being advertised by Council as required by Section 116 of the Roads Act 1993 and no substantial objections to the proposal which cannot be addressed, being received by the closing date of the advertising.
 6. That organisers obtain permission from Hornsby Council for the use of streets that are under its control.
 7. That organisers be responsible for the supply/erection of any necessary barriers and road cones at their cost to ensure the safe conduct of the event.
 8. That event organisers ensure participants use footpaths where practicable and at other times to run/walk as near as practicable to the right-hand side of the carriageway, facing on-coming traffic.
 9. That any directions given by the Local Area Command Kuring-gai be promptly obeyed.

10. That any motor vehicle used in conjunction with this event must be driven at the general speed of traffic. When used for relief or supervisory purposes while stationary, such vehicles must be clear of the trafficable portion of the roadway used by moving traffic.
 11. Roads and Traffic Authority accredited marshals are to be provided at appropriate positions as agreed by the Police Service to make motorists aware of the potential danger of runners/walkers in the vicinity.
 12. That all marshals to be in position prior to the commencement of the event and remain until dismissed by the organisers.
 13. That marshals be briefed as to their duties and responsibilities prior to commencement of the event.
 14. The Sydney Adventist Hospital supply 20 million dollars public liability insurance cover, naming Ku-ring-gai Council as principal and the evidence of the Policy should be received by Council one week prior to the event.
 15. That Council's Regulatory Officer visits the site during the event, to ensure Council's conditions of approval are being observed.
- B. That Ms Kylie Gillett of the Sydney Adventist Hospital Foundation be notified of Council's decision, and be requested to respond in writing to Council by Friday, 3 September 2010, confirming the SAH's acceptance of Council's decision for conducting the Fun Run 2010.

CARRIED UNANIMOUSLY

228

Traffic and Transport Policy

File: S02527

Vide Minute No KTC8

To consider updating Council's Traffic and Transport Policy.

Resolved:

(Moved: Councillors Keays/Anderson)

That proposed updates to Council's *Traffic and Transport Policy* be adopted.

CARRIED UNANIMOUSLY

GENERAL BUSINESS229 **Setting of Date for the Election of Mayor & Deputy Mayor - 2010/2011**

Files: S02355, S03662

To give consideration to setting the date for the 2010/2011 Election of the Mayor and Deputy Mayor.

Resolved:

(Moved: Councillors Szatow/Keays)

- A. That the 2010/2011 Election of the Mayor and Deputy Mayor be held at the Ordinary Meeting of Council on Tuesday, 14 September 2010.
- B. That the 2010/2011 Election of the Chairpersons/Deputy Chairpersons of Council's Reference and Advisory Committees be held on Tuesday, 21 September 2010
- C. That Council consider the appointment of various Community Committee members/delegates on Tuesday, 21 September 2010.

CARRIED UNANIMOUSLY

230 **Policy for the Payment of Expenses and Provision of Facilities to Councillors**

File: S03779

To recommend the exhibition of an updated Policy for the Payment of Expenses and Provision of Facilities to Councillors.

Resolved:

(Moved: Councillors Szatow/Keays)

That the updated Policy for the Payment of Expenses and Provision of Facilities to Councillors be endorsed for placing on public exhibition.

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

Against the Resolution: Councillor Hall

231 **Expansion of Council's Smoke Free Policy**

File: S03433

To report on a Council resolution seeking an expansion of Council's Smoke Free Policy.

Resolved:

(Moved: Councillors Szatow/McDonald)

- A. That Council amend its existing current policy in respect of Smoking in Public Places so as to ban smoking in the following areas:
- i. Within 10 metres of all children's play areas under Council's care.
 - ii. At all Council playing fields, sporting grounds, and West Pymble Pool
 - iii. At all events run or sponsored by Council.
 - iv. In all Council owned buildings and within 10 metres of Council owned or managed buildings and gardens including balconies or covered areas of those balconies or gardens.
 - v. In all alfresco dining areas on public land.
 - vi. In all covered bus shelters and taxi ranks.
 - vii. All future leases and hiring of Council assets reflect this revised policy
- B. That the revised policy commence by way of a staged implementation from 1 November 2010, the first zones to be implemented being all Council owned or managed buildings and the final implementation zones to be those associated with alfresco dining on Council land by 1 July 2011.
- C. That Council identify a funding source of \$37,000.00 so as to facilitate implementation of the expanded policy.

CARRIED UNANIMOUSLY

232 **Sustainability Reference Committee - Notes of Meeting held Monday, 7 June 2010**

File: S07619

To bring to the attention of Council the proceedings of the Sustainability Reference Committee Meeting held on Monday, 7 June 2010.

Resolved:

(Moved: Councillors Szatow/Holland)

That the notes and attachments of the Sustainability Reference Committee meeting held on Monday, 7 June 2010 be received and noted.

CARRIED UNANIMOUSLY

233 **Heritage Reference Committee - Notes of Meeting held 17 May 2010**

File: S07620

To advise Council of the notes of the Heritage Reference Committee Meeting held 17 May 2010.

Resolved:

(Moved: Councillors Szatow/Anderson)

That Council receive and note the Heritage Reference Committee Meeting Notes of 17 May 2010.

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

Against the Resolution: Councillor Malicki

234 **Draft Unstructured Recreation Strategy**

File: S06520

To place on public exhibition the draft Unstructured Recreation Strategy.

Resolved:

(Moved: Councillors Szatow/Holland)

- A. That Council place the draft Unstructured Recreation Strategy on public exhibition for a period of 28 days inviting comments, in accordance with the consultation plan as outlined in the report.
- B. That a revised draft Unstructured Recreational Strategy be brought back to Council for further consideration by October 2010.

CARRIED UNANIMOUSLY

235 **West Pymble Pool Tender**

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File: S08277/3

To advise Council of the outcome of the recent public notification in accordance with Section 47 of the Local Government Act, 1993 and to advise Council of the tenders received for the management of West Pymble Pool.

Resolved:

(Moved: Councillors Szatow/Keays)

- A. That Council note the outcomes of the Section 47 notification for West Pymble Pool.
- B. That Council resolve to not accept any tender for the Management of West Pymble Pool.
- C. That Council seek written quotes to manage the existing pool on behalf of Council for the 2010-2011 swim season.
- D. That Council approve the calling of public tenders for the construction of West Pymble Pool.

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

Against the Resolution: Councillor Anderson

236 **Sponsorship Agreement - Turramurra Lookout Community Garden & Turramurra Community Bank**

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File: S07824

To advise Council of the proposed five year sponsorship agreement between Turramurra Community Bank (a branch of the Bendigo Bank) and Council for the Turramurra Lookout Community Garden.

Resolved:

(Moved: Councillors Szatow/Duncombe)

That Council enter into a sponsorship agreement with the Turrumurra Community Bank to assist in the establishment and ongoing support of the community garden at Turrumurra Lookout from 16 April 2010 to 16 April 2015.

CARRIED UNANIMOUSLY

237 **Expression of Interest - EOI/04/2010 - Economic Development Strategy**

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File: S08182

To report on the outcome of the expression of interest (EOI) for an Economic Development Strategy.

Resolved:

(Moved: Councillors Szatow/Duncombe)

- A. That the AEC Group Ltd be appointed to undertake a strategic analysis of the benefits in establishing an Economic Development Unit in Council on the basis of the terms outlined in their EOI submission
- B. That the Common Seal be affixed to any necessary documents.
- C. That a project group consisting of the same Councillors and staff as the assessment review panel be established to oversee the project.
- D. That a further report be submitted to Council upon the completion of the analysis by the AEC Group Ltd.

CARRIED UNANIMOUSLY

238 **Proposed Modifications to the Codes SEPP**

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File: CY00054/2

To provide Council with a draft submission on the Department of Planning's proposed amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the 'Codes SEPP').

Resolved:

(Moved: Councillors Keays/McDonald)

- A. That Council make a submission to the Department of Planning as outlined in Ku-ring-gai Council's Response to NSW Housing Code: Expansion to cover small lots/Discussion Paper (Attachment 2).

- B. In reference to the submission on Heritage Conservation Areas add the following words:

They may also include the original dwelling on the site. The latter could be avoided through a tight definition of 'outbuildings' and 'detached additions' but this would not address other secondary buildings.

- C. In reference to the outbuildings fronting a rear laneway submission add the following:

The definition of a rear laneway is not currently defined in the Codes SEPP, and is proposed to be defined as a parallel road frontage. It is recommended that this definition of laneway be tightened. Where a lot stretches between parallel primary and secondary roads, the front setback controls should apply to both frontages. Only where the laneway is narrow, should this provision be applied. An overall width of 6m may be appropriate.

CARRIED UNANIMOUSLY

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

239

B2 Lands South Turrumurra - Project Delivery Agreement

File: S08281

The following members of the public addressed Council:

**D Mohr
B Muir
B Bourne
M Booth**

To seek the approval of Council to enter into a Project Delivery Agreement with the NSW Land & Property Management Authority – Office of Strategic Lands.

Resolved:

(Moved: Councillors Malicki/Holland)

That Council authorise the General Manager to execute the amended Terms Sheet that is the subject of the report, and that authority be granted to the Mayor and General Manager to affix the Council Seal and to execute all necessary documentation, to facilitate the completion of a Project Delivery Agreement with the

NSW Land and Property Management Authority - Office of Strategic Lands for the delivery of the B2 Project with the following amendments:

6. (a) add "incorporating best practice sustainability principles".
6. (f) A new paragraph that says "Subdivision design is to include sustainable urban design parameters such as building materials, solar access and alignment, cross flow ventilation, setbacks, floor space, access, parking and landscaping provisions. The DCP is to also include opportunities for alternative power sources and maximum opportunities for water reuse."
12. (d) The Council representatives on the PCG will be bound by all Council's resolutions with respect to the project.

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

Against the Resolution: *Councillors Hall & Hardwick*

240

17 Dudley Avenue Roseville - Modification of DA1095/05 Proposing Changes to Front Fence

File: MOD0133/10

Ward: Roseville

Applicant: Shannon Sengupta

Owner: Shannon Sengupta

The following member of the public addressed Council:

C Powell

To determine modification of consent application MOD0133/10 which seeks retrospective approval for a constructed front fence.

Resolved:

(Moved: Councillors Duncombe/Anderson)

That Ku ring gai Council, as the consent authority, modify development consent to Development Application No. DA 1095/05 proposing changes to the front fence and gates on land at 17 Dudley Avenue, Roseville, in the following manner:

1. Condition No 1 is modified so as to read as follows:

Approved architectural plans and documentation (s.96)

The development must be carried out in accordance with the following plans

and documentation listed below and endorsed with Council's stamp:

Plan no.	Drawn by	Dated
025.05, Sheets 1 of 7, 3 of 7, 4 of 7, 5 of 7, 6 of 7 and 7 of 7	North Shore Design Group	June 2005 and lodged with Council on 28 September 2005
Landscape Plan 284, Issue 01	Peter Fudge Garden Design	9 September 2005 and lodged with Council on 28 September 2005.

Except where amended by that work shown in colour on the S.96 plans endorsed with Council's stamp, as listed below, and except where amended by other conditions of this consent:

s.96 plan no.	Drawn by	Dated
Plan No.1	North Shore Design Group - Mr ken Yardley	26 July 2010

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

2. The following conditions are to be inserted:

Conditions to be satisfied prior to the issue of the construction certificate:

23a. Design changes

The following design changes are to be undertaken:

- The height of the front fence is to be reduced by 500mm over a length of 1450 mm on either side (West and East) of the 300mm wide piers adjoining the pedestrian gate and for the full length of the return walls as per the notations marked red on the approved plans, dated 6 August 2010.
- The footpath entrance gate and the driveway gate are to have a minimum 20mm spacing between each vertical paling as marked in red on the approved plans.

Details of the above design changes are to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason: To minimise streetscape impacts.

CARRIED UNANIMOUSLY

241 **Urban Design Excellence Panel - Terms of Reference and Appointment Process**

File: S08367

To present to Council a process for the appointment and operation of the Urban Design Excellence Panel (UDEP) as required under Clause 6.4 - "Urban Design Excellence for Key Sites" of the "Ku-ring-gai Local Environmental Plan (Town Centres) 2010".

Resolved:

(Moved: Councillors Malicki/Keays)

- A. That the *Urban Design Excellence Panel (UDEP) Terms of Reference* document be exhibited, with the following changes, as a policy of Council for a period of 28 days for public comment. Following exhibition, results and amendments be reported back to Council:
- i. That Roles & Responsibilities Section 5.1.4 include the following words:
and any equipment should be returned back to Council at the end of their term.
 - ii. That the Protection and Use of Information Section 7.3.2 dot point 2 include the following wording:
by the General Manager, Ku-ring-gai Council
 - iii. That the procedures for meeting Sections 6.1.6 and 6.1.7 be amended to include the following words at the beginning:
As a guide and to ensure the efficient use of time and resources for the UDEP.
 - iv. That under the Membership Section 3.1.1, the following dot point be added:
experience in working in heritage areas and experience with sustainable innovation.
- B. That Council exhibit a proposed amendment to the Fees and Charges 2010-2011 to include a charge for applications under the UDE process an initial fee of \$15,000, a second UDEP presentation meeting fee of \$1,500 and additional UDEP meetings \$2,000 per meeting.
- C. That a further report be brought back to Council on an alternative Urban Design Excellence process to be applied to Council where Council will have an interest in the application.

Councillor Hall withdrew prior to vote

CARRIED UNANIMOUSLY

242 **Future Proposed Road Closure - Denley & Unnamed Lanes, St Ives**

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File: 88/05363/01

Resolved:

(Moved: Councillors Keays/Szatow)

That the matter be considered later in the meeting in Closed Session.

CARRIED UNANIMOUSLY

243 **Heritage Matter - 23 Telegraph Road, Pymble**

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File: CY00294

Councillor Hall returned

To provide Council with information on the ability of Council to apply an Interim Heritage Protection Order over the curtilage of the property known as 23 Telegraph Road, Pymble.

Resolved:

(Moved: Councillors Anderson/Hardwick)

That Council receive and note the information.

CARRIED UNANIMOUSLY

244 **7 to 11 Derby Street, St Ives - To Relocate and Amend Terms of Council's Drainage Easement**

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File: FY00002/3

To seek approval to relocate and amend the terms of Council's drainage easement at 7 to 11 Derby Street, St Ives.

Resolved:

(Moved: Councillors Hall/Anderson)

- A. That Council approve the relocation of the drainage easement traversing No 7 to 11 Derby Street, St Ives (Lot 7, DP 208381).

- B. That authority be given to affix the common seal of the Council to the appropriate instrument for the extinguishment and creation of new easement.
- C. That cost for extinguishment of the drainage easement and Council's legal costs and disbursements be borne by the applicant.

CARRIED UNANIMOUSLY

245 **RTA Program Funding 2010 to 2011**

File: S02585

To advise Council of the RTA funding program for 2010/2011 and adopt the various grants as provided by the RTA.

Resolved:

(Moved: Councillors Hall/Malicki)

- A. That Council accepts the grant offer of \$158,000 for the shoulder work and the upgrade of two (2) splitter islands in Lady Game Drive, the median island at Woodlands Road, East Lindfield, the pedestrian refuge upgrades in Yanko Road, West Pymble, the replacement crossing in Grosvenor Road, Lindfield and the installation of a pedestrian fencing in Rosedale Road, Gordon under the Traffic Management and Footpath Program.
- B. That Council accepts the grant of \$44,000 under the Road Safety Program.
- C. That Council accepts the Roads component of \$203,000 and the Supplementary Road Component of \$82,000 of the Regional Roads Block Grant for 2010-2011.
- D. That Council not accept the Traffic Facilities component of the Regional Road Block Grant for 2010-2011 and continues to use RTA resources to carry out traffic facilities work.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

246 **Joint Regional Planning Panel**

File: S08324

Notice of Rescission from Councillors T Hall, J Anderson and C Hardwick dated 22 July 2010

Resolved:

(Moved: Councillors Malicki/Keays)

That the matter be considered later in the meeting in Closed Session.

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

Against the Resolution: Councillor Hall

247 **Qualified Researchers**

.
File: S04569

Notice of Motion from Councillor C Szatow dated 22 July 2010

I move that:

"When reports are presented to Council on reviews of services or operations, the review is to have been conducted by suitably qualified researchers using industry standard quantitative and/ or qualitative methodology.

The results of any research or review are to be presented to Council in a clear and easily understood format."

Motion:

(Moved: Councillors Szatow/Keays)

That the above Notice of Motion as printed be adopted.

*The above Motion when put to the vote was LOST
with Councillors voting Unanimously against the Motion*

248 **Circus Performances in Ku-ring-gai**

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File: S02447

Notice of Motion from Councillor J Anderson dated 2 August 2010

I move that:

"A. Council not permit circus performances of wild and/or exotic animals at any Council controlled facility within Ku-ring-gai.

- B. Council permit circus performances of domestic animals at Council controlled facilities within Ku-ring-gai.
- C. Any lease, licence or agreement entered into by Council and a circus on Council managed property, must include a condition to give affect to paragraphs A and B of the motion."

Resolved:

(Moved: Councillors Malicki/Hardwick)

- A. That Council permit circus performances of animals at Council controlled facilities within Ku-ring-gai.
- B. That any lease, licence or agreement entered into by Council and a Circus on Council managed property, must include a condition to give affect to the Motion.

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

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

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

(Moved: Councillors Anderson/Szatow)

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

249

Legal Advisings

File: S08123

Notice of Motion from Councillor Tony Hall dated 2 August 2010

As Councillors may be aware there has been a growing practice by Council staff, delegated to do so, to seek legal opinions /advisings for the purposes of Council's administration, orally in some circumstances and the legal consultant then replies in terms of what they consider to be the Council's Instructions for that Advice. This practice was prevalent in earlier councils until it was decided to ensure ALL staff requests/Instructions for Advice from the Council's Panel of Legal consultants were in writing at all times to avoid any misinterpretation of those Instructions /requests at Ratepayers' expense.

I move:

"That Delegation A1-Legal granted to the General Manager be amended forthwith, to ensure Instructions given by staff under this delegation, be in writing."

Motion:

(Moved: Councillors Hall/Anderson)

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

For the Motion: Councillors Anderson & Hall

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

The above Motion when put to the Vote was LOST

QUESTIONS WITHOUT NOTICE

250

Internal Audit

File: S06954

Question Without Notice from Councillor T Hall

I ask the General Manager would he provide Council at its next meeting, the 2010/2011 Internal Auditor's Plan of Management proposed to be acted upon please?

Answer by the General Manager

I'm sure it was tabled at the last Audit Committee as an agenda item and discussed. I am happy to provide a copy of what was tabled at the Audit Committee.

Council resolved itself into Closed Meeting for discussion only with the Press & Public excluded to deal with the following item moved by Councillors Hardwick & Anderson and was CARRIED UNANIMOUSLY

251

Future Proposed Road Closure - Denley & Unnamed Lanes, St Ives

File: 88/05363/01

For Council to consider the formal public road closure of Denley Lane, St Ives and a nearby unnamed lane, in order permit discussions to commence with owners of the St Ives Shopping Village to achieve planning proposals inline with the Ku-ring-gai Development Control Plan (Town Centres) 2010.

*Council resolved to return to Open Council
prior to the vote after a Motion
moved by Councillors Keays & McDonald
was CARRIED UNANIMOUSLY*

Resolved:

(Moved: Councillors Keays/McDonald)

- A. That a formal road closure application for Denley Lane and the unnamed lane be submitted to the NSW Land & Property Management Authority.
- B. That, upon closure and issuance of the Certificate of Title for the land known as Denley Lane and the unnamed lane St Ives be classified as Operational Land.
- C. That EK Nominees be invited to give Council a presentation on their proposals for the St Ives Shopping Village redevelopment, including Council owned land.
- D. That future discussions and negotiations with E.K. Nominees are reported to Council and accord with development outcomes identified in the Town Centres DCP for St Ives, prior to owners consent being issued in relation to the potential development of part of Denley Lane and the unnamed lane.

CARRIED UNANIMOUSLY

***Council resolved itself into Closed Meeting
with the Press & Public excluded to deal with the following item
moved by Councillors Duncombe & Anderson
and was CARRIED UNANIMOUSLY***

252 **Joint Regional Planning Panel**

File: S08324

Notice of Rescission from Councillors T Hall, J Anderson and C Hardwick dated 22 July 2010

We move that:

"The undersigned seek to rescind Minute No 212 of the Ordinary Council Meeting of 20 July 2010 and the Minute is hereby rescinded."

Councillor Hardwick withdrew during discussion

Motion:

(Moved: Councillors Hall/Anderson)

That the above Notice of Rescission as printed be adopted.

The above Motion when put to the vote was LOST

For the Motion: Councillors Anderson, Duncombe & Hall

Against the Motion: The Mayor, Councillor I Cross, Councillors Holland, Malicki, Keays, Szatow & McDonald

253

Proposal to Acquire Open Space - Killara

File: S07257

In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2)(c) of the Act, and should be dealt with in a part of the meeting closed to the public.

Section 10A(2)(c) of the Act permits the meeting to be closed to the public in respect of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

This matter is classified confidential because it deals with the proposed acquisition of property.

It is not in the public interest to release this information as it would prejudice Council's ability to acquire the property on appropriate terms and conditions.

Councillor Hardwick returned during discussion

Report by Director Strategy and Environment dated 4 August 2010.

Resolved:

(Moved: Councillors Keays/Szatow)

That Council resolve to acquire the properties in Killara for local open space and proceed as outlined in the report.

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

Against the Resolution: Councillor Hall

Councillor Hall departed

*Council resolved to return to Open Council
a Motion moved by Councillors Szatow & Anderson
was CARRIED UNANIMOUSLY*

The General Manager adverted to the consideration of the matters referred to in Minutes numbered 251 to 252, and to the resolutions contained in such Minutes.

***Council resolved itself into Closed Meeting
with the Press, Public & Staff excluded to deal with the following item
moved by Councillors Anderson & Duncombe
and was CARRIED UNANIMOUSLY***

254 **General Manager's Performance Review**

File: CY00254/2

In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2)(a) of the Act, and should be dealt with in a part of the meeting closed to the press and public.

Section 10A(2)(a) of the Act permits the meeting to be closed to the public for business relating to personnel matters concerning particular individuals (other than Councillors).

Confidential Report by the Mayor, Councillor Ian Cross dated 3 August 2010.

Councillor Hardwick departed during discussion

Resolved:

- A. That Council recognises the overall performance achieved by the General Manager for the 2009/2010 performance cycle.
- B. That Gregor Ptok from Employment Solutions be requested to assist Council to conduct the half yearly and annual performance review in November 2010 and May 2011 respectively.
- C. That in light of the outcome of the 2009/2010 performance agreement, Council review the current remuneration for the General Manager in the manner as discussed.
- D. That the General Manager be formally advised of Council's decision.

CARRIED UNANIMOUSLY by those present

To Open Council

The Meeting closed at 11.59pm

The Minutes of the Ordinary Meeting of Council held on 10 August 2010 (Pages 1 - 26) were confirmed as a full and accurate record of proceedings on 24 August 2010.

General Manager

Mayor / Chairperson