

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 10 NOVEMBER 2009

Present: The Mayor, Councillor I Cross (Chairperson) (Wahroonga Ward)
Councillors S Holland & E Malicki (Comenarra Ward)
Councillors E Keays & C Szatow (Gordon Ward)
Councillors 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)
Director Community (Janice Bevan)
Senior Governance Officer (Geoff O'Rourke)
Director Development & Regulation's PA (Judy Murphy)

The Meeting commenced at 7.00pm

The Mayor offered the Prayer

238 **APOLOGIES**

File: S02194

Councillor Jennifer Anderson tendered an apology for non-attendance (attending a conference) and requested leave of absence.

Councillor Rakesh Duncombe tendered an apology for non-attendance (business commitment) and requested leave of absence.

Resolved:

(Moved: Councillors Keays/McDonald)

That the apologies by Councillors Jennifer Anderson and Rakesh Duncombe for non-attendance be accepted and leave of absence be granted.

CARRIED UNANIMOUSLY

DECLARATIONS OF INTEREST

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

No Interest was declared.

239 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:

- C.1 **Internal Audit Committee - Selection of Independent Community Members** - Report by General Manger and Internal Ombudsman dated 2 November 2009 with attachments.

CARRIED UNANIMOUSLY

DOCUMENTS CIRCULATED TO COUNCILLORS

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

Late Items: **Refer GB.11 - New Ku-ring-gai SES and RFS Headquarters -** Memorandum by Director Operations dated 4 November 2009 with a copy of the preliminary architectural concept drawings based on the recommended option.

Memorandums: **Refer GB.4 - Gordon and North Turramurra Golf Courses - Leases and Professional Services** - Memorandum to Councillors, General Manager and Directors by Director Community dated 10 November 2009 regarding Attachment A to the report.

Refer GB.4 - Gordon and North Turramurra Golf Courses - Leases and Professional Services - Letter from Mr W Churcher dated 9 November 2009 referring to Attachment C of the report.

Refer GB.6 - 1 Elegans Avenue, St Ives - Memorandum by Director Development & Regulation dated 4 November 2009 relating to a typographical error in point 1 of the Officer's Recommendation.

Refer GB.8 - Water Street Park - Memorandum to General Manager, Councillors & Directors ONLY by Director Strategy & Environment dated 3 November 2009 with an attached colour A3 copy of the Water Street Park design plan (Attachment 1 to the report).

Refer GB.9 - St Ives Village Green Masterplan - Memorandum to General Manager, Councillors & Directors ONLY by Director Strategy & Environment dated 3 November 2009 with an attached colour A3 copy of the draft Landscape Masterplan (Attachment to report)

**Councillors
Information:**

Bushfire Issues - Memorandum by Director Strategy & Environment dated 22 October 2009 in answer to a Question Without Notice raised by Councillor Elaine Malicki at the Ordinary Meeting of Council held 20 October 2009.

Private Certifier - P Boyce - Memorandum by Director Development & Regulation dated 5 November 2009 in answer to a Question Without Notice raised by Councillor Tony Hall at the Ordinary Meeting of Council held 20 October 2009

CONFIRMATION OF MINUTES

240 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 20 October 2009
Minutes numbered 216 to 237

Resolved:

(Moved: Councillors Holland/Hardwick)

That Minutes numbered 216 to 237 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

GENERAL BUSINESS241 **Water Street Park**

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File: S06476

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

Resolved:

(Moved: Councillors Szatow/McDonald)

That consideration of Council approval of the draft landscape design plan for the newly acquired park at Lot 1 Water Street, Wahroonga be deferred pending a site inspection.

CARRIED UNANIMOUSLY242 **Council Meeting Cycle for 2010**

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File: S02355

To consider the proposed Council Meeting Cycle for 2010 which takes account of school holidays, public holidays, the Local Government Association Conference and the Christmas Recess.

Resolved:

(Moved: Councillors Szatow/Keays)

A. That the Council meeting cycle for 2010 be as follows:

February:	2 February 2010 23 February 2010	Ordinary Meeting of Council Ordinary Meeting of Council
March:	9 March 2010 23 March 2010	Ordinary Meeting of Council Ordinary Meeting of Council
April:	20 April 2010 27 April 2010	Ordinary Meeting of Council Ordinary Meeting of Council
May:	11 May 2010 25 May 2010	Ordinary Meeting of Council Ordinary Meeting of Council
June:	8 June 2010 22 June 2010	Ordinary Meeting of Council Ordinary Meeting of Council

July:	20 July 2010 27 July 2010	Ordinary Meeting of Council Ordinary Meeting of Council
August:	10 August 2010 24 August 2010	Ordinary Meeting of Council Ordinary Meeting of Council
September:	14 September 2010 21 September 2010	Ordinary Meeting of Council Ordinary Meeting of Council
October:	12 October 2010 19 October 2010	Ordinary Meeting of Council Ordinary Meeting of Council
November:	9 November 2010 23 November 2010	Ordinary Meeting of Council Ordinary Meeting of Council
December:	7 December 2010 14 December 2010	Ordinary Meeting of Council Ordinary Meeting of Council

- B. That the first meeting for 2011 be held on 1 February 2011 and the normal meeting cycle resume on 22 February 2011.

CARRIED UNANIMOUSLY

243

Council Sponsorship for Carols in the Park & the Ku-ring-gai Philharmonic Orchestra

File: S05650

The following member of the public addressed the Council:

A Cahill

To advise Council of sponsorship proposals from Carols in the Park and Ku-ring-gai Philharmonic Orchestra.

Resolved:

(Moved: Councillors Szatow/Keays)

- A. That Council provide sponsorship to Carols in the Park for \$10,000 and to the Ku-ring-gai Philharmonic Orchestra for \$10,000 for the 2009-2010 financial year.
- B. That sponsorship agreements be developed with Carols in the Park and the Ku-ring-gai Philharmonic Orchestra, according to Council's Sponsorship Policy, reflecting the recommended sponsorship amounts.

CARRIED UNANIMOUSLY

244 **Division of Local Government Integrated Planning and Reporting Framework**

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File: FY00019

For Council to nominate for Group 1 to commence under the new Division of Local Government Integrated Planning and Reporting framework.

Resolved:

(Moved: Councillors Szatow/Keays)

That Council approve the nomination for Group 1 to commence under the new *Local Government (Planning and Reporting) Amendment Act 2009 (LGA Act, 2009)*.

CARRIED UNANIMOUSLY

245 **New Ku-ring-gai SES and RFS Headquarters**

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File: S02543

Ward: Wahroonga

To advise Council of the status with the design of the new SES and RFS Headquarters and to make a determination on the preferred footprint option.

Resolved:

(Moved: Councillors Szatow/Hall)

That Council advises the SES and RFS that the preferred option for the new Ku-ring-gai Headquarters is Option 9i and that Council's designers be requested to prepare detailed designs for the construction of the new headquarters.

CARRIED UNANIMOUSLY

246 **1 Hampden Avenue, Wahroonga - Relocation of Council Pipe & Easement**

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File: DA0566/08

Ward: Wahroonga

To consider a request by the applicant of 1 Hampden Avenue, Wahroonga to relocate a Council stormwater pipeline and easement traversing the property.

Resolved:

(Moved: Councillors Szatow/McDonald)

- A. That Council grants approval for the extinguishment of the existing easement and creation of a new drainage easement 1.83m wide over the new pipeline.
- B. That authority be given to affix the Common Seal of the Council to the appropriate instrument for the extinguishment, amendment, alteration or creation of the drainage easement as necessary.
- C. That all costs associated with the extinguishment, amendment, alteration or creation of the drainage easement be borne by the applicant.
- D. That all landscape consent conditions imposed on DA 566/08, including but not limited to, cutting of tree roots, treatment of tree roots, canopy/root pruning and hand excavation requirements be fully complied with under the supervision of a suitably qualified and experienced arborist/horticulturist.
- E. That Council approves the proposal to modify the stormwater pipelines in accordance with the submitted concept drainage plans by ACOR Appleyard (refer Job No. 382986, Issue 1, dated 5/2008) and subject to the following conditions:
 1. The applicant carry out all drainage works in accordance with the plans and specification approved by Council and at no cost to Council.
 2. The applicant carry out all drainage works in accordance with Council's standard conditions of construction.
 3. The works are subject to inspections. The applicant or their engineer is to give Council at least 24 hours notice (to allow inspection) at the following stages:
 - i. After completion of excavation and prior to pipe laying commencing.
 - ii. After completion of pipe laying prior to backfilling.
 - iii. On completion of pipeline installation.

CARRIED UNANIMOUSLY

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

247 **St Ives Village Green Masterplan**

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File: S07533

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

To seek Council's approval to place a draft St Ives Village Green Landscape Masterplan on public exhibition.

Resolved:

(Moved: Councillors Hall/Hardwick)

- A. That Council place the draft St Ives Village Green Landscape Masterplan on public exhibition immediately until the end of January 2010 for public comments.
- B. That Council publicly advertise the public exhibition to the wider community and inform all individuals, community groups, sporting clubs and stakeholders who participated in the consultation process of the public exhibition of the draft Landscape Masterplan.
- C. That Council consider a report, following the period of public exhibition, in February 2010 to formally adopt the St Ives Village Green Landscape Masterplan.
- D. That following the exhibition, and prior to the matter being referred back to Council, there be a site inspection for any interested Councillors.

CARRIED UNANIMOUSLY

248 **Federal Government Regional & Local Community Infrastructure Program - Stage 2**

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File: S06957

The following members of the public addressed the Council:**J Brennan-Horley
M Zazulak**

To advise Council of the funding from the Federal Government Regional and Local Community Infrastructure Program for the Stage 2 grant and for Council to determine which project or projects that it wishes to nominate for this grant.

Resolved:

(Moved: Councillors Hall/Hardwick)

That Council nominates Tulkiyan Building Gordon (\$80,000), Ku-ring-gai Wildflower Gardens, St Ives (\$50,000) and Old School Building Meeting Rooms, Gordon (\$21,000) for the grant by 20 November 2009.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN249 **Tulkiyan Plan of Management**

File: S07525

The following member of the public addressed the Council:

H Davies

Notice of Motion from Councillor Elise Keays and Councillor Cheryl Szatow dated 21 October 2009

We move:

"That the General Manager undertakes an investigation of the budgetary and auxiliary requirements for the operation of Tulkiyan in order for it to be a showcase for heritage in Ku-ring-gai as its only Museum. Following these results, the General Manager is to undertake in a timely manner, the new Plan of Management for Tulkiyan.

The current Plan of Management (2001) does not address the issues listed in a to g and we believe for Tulkiyan to contribute significantly to the heritage landscape of Ku-ring-gai, it needs a more professional approach to its management.

These investigations and a new plan of management will assist the wonderful volunteers who currently work so hard to keep Tulkiyan a working museum.

A. Assessment of Budgetary and auxiliary requirements for:

1. Marketing.
2. Staffing – especially a Permanent Part Time Person to assist The Friends in the overall running of the Museum.
3. Exploration of Grants.
4. Event management.
5. Incorporation of "The Friends of Tulkiyan".
6. Expanding the volunteer base of "The Friends".
7. A new committee structure.

- B. Once an assessment of items 1 to 7 identified in A. above have been completed, that a formal report be referred to Council outlining the financial and resourcing implications of these matters prior to the development of a Plan of Management.
- C. Clear Guidelines as to what events are allowed in Museums of this type.
- D. New Plan of Management."

Resolved:

(Moved: Councillors Keays/Szatow)

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

CARRIED UNANIMOUSLY

GENERAL BUSINESS (cont)

250

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

Files: S03779, CY00053

To recommend the exhibition of a revised Policy for the Payment of Expenses and Provisions of Facilities to Councillors.

Resolved:

(Moved: Councillors Malicki/Keays)

That the revised 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, Hardwick &
McDonald*

Against the Resolution: Councillor Hall

251

Gordon and North Turramurra Golf Courses - Leases and Professional Services

File: S02140

To advise Council of the current status of the operational management of the Gordon and North Turramurra Golf Courses.

Resolved:

(Moved: Councillors Keays/Malicki)

- A. That Council extend the Tee Tops Pty Ltd Contractual Services Deed for a minimum of 6 months (31 July 2010) with an option to extend for an additional 6 months (31 January 2011), to allow for adequate time to conduct a review.
- B. That Council seeks advice from the Professional Golfers Association on what services and professional accounting expertise they will provide in the review which must include finance as well as the professional running of the courses.

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

Against the Resolution: Councillors Szatow, Hall, Hardwick & McDonald

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

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

(Moved: Councillors Hall/Holland)

- A. *That Council extend the Tee Tops Pty Ltd Contractual Services Deed for a minimum of 6 months (31 July 2010) with an option to extend for an additional 6 months (31 January 2011), to allow for adequate time to conduct a review.*
- B. *That Council obtain the services of an independent chartered accountant to undertake a review of operations at the Gordon and North Turramurra golf courses, as outlined in the report with the assistance of a Professional Golfers Association expert.*
- C. *That the independent chartered accountant make recommendations for the benefit of the golf courses and for the continuation of a service to the community to Council as a result of the review of operations.*

252

Policy for the Management of Community and Recreation Land and Facilities

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File: S07308

To provide Council with the draft Policy for Management of Community and Recreation Land and Facilities.

Councillor Hardwick withdrew during discussion

Resolved:

(Moved: Councillors Holland/Keays)

- A. That Council approve the draft Policy for the Management of Community and Recreational Land and Facilities for public exhibition for a period of 28 days.
- B. That a subsequent report be prepared for Council to adopt the Policy and to address any issues which may be raised during the public exhibition period.

CARRIED UNANIMOUSLY

253

1 Elegans Avenue, St Ives - Supplementary Report

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File: REV0015/09

Ward: St Ives

To address matters raised at the site inspection of 17 October 2009 and for Council to determine a review of DA1326/08 proposing dual occupancy development.

Resolved:

(Moved: Councillors Malicki/Holland)

Pursuant to Section 82(A) of the Environmental Planning and Assessment Act, 1979

That Council, as the consent authority, having considered the application for review of its determination, resolve to confirm its determination and refuse development consent to Development Application No. DA1326/08 for proposal of dual occupancy development on land at No.1 Elegans Avenue, St Ives.

AND

That Council amend the reasons for refusal as follows:

1. The proposed front setback to Elegans Avenue is inconsistent with the prevailing setback along Elegans Avenue and results in a built form which is incompatible with the surrounding environment

Particulars:

- a. The proposed setback of 3 metres of dwelling 2 to Elegans Avenue is incongruent with the adjoining development. The proposed development does not have a harmonious relationship with surrounding development and will dominate the streetscape.
- b. The proposal is inconsistent with the aims of SEPP 53 and outlined in Clause 1(d).
- c. The proposal fails to be of good design and is inconsistent with Clause 32(a) of SEPP 53.
- d. The proposal is inconsistent with the general aims and objectives for residential zones, as outlined in Schedule 9 – clauses 1 (a) and of the Ku-ring-gai Planning Scheme Ordinance.

2. The proposal will result in a development of a bulk and scale which is excessive and inconsistent with the built form of the surrounding environment

Particulars:

- a. The proposed development is excessively bulky and does not provide adequate setbacks which increase with wall height. In particular, the proposal is overbearing in scale and does not articulate the corner site or relate to surrounding development. The excessive bulk of the proposed development is exacerbated by its prominent corner site location.
- b. The proposed 3 metres front setback of proposed dwelling does not allow sufficient area for landscaping to soften the bulk of the proposed three (3) storey dwelling.
- c. The proposal is inconsistent with the aims of SEPP 53 as outlined in Clause 1(d).
- d. The proposal fails to be of good design being inconsistent with Clauses 32(a) and (h) of SEPP 53.
- e. The proposal is inconsistent with the general aims and objectives for residential zones, as outlined in Schedule 9 – Clauses 1(a) and 2(e) of the Ku-ring-gai Planning Scheme Ordinance.

3. The proposal is unacceptable with regard to engineering issues regarding property drainage, vehicular manoeuvrability and insufficient information

Particulars:

- a. The proposed works generate inadequate storm water drainage not in accordance with DCP47 Water Management and AS/NZS 3500
- b. The proposed driveway generates insufficient driveway vehicular manoeuvrability and is not in accordance with the B85 turning template
- c. The proposal provides insufficient information to enable an assessment of BASIX commitments.

4. The proposal results in unacceptable impacts upon significant trees on the Elegans Avenue nature strip and fails to provide adequate landscape screening to ensure a high level of privacy and amenity is maintained

- a. The proposed works will result in adverse impacts to significant trees; T29: *Pittosporum undulatum* (Sweet Pittosporum) and T30: *Callistemon salignus* (Willow Bottlebrush) located on Elegans Avenue nature strip.
- b. The proposed continuous screen planting located along Cassandra Avenue and the splay cannot be achieved due to the NSW Rural Fire Service requirements for Inner Protection Zones.

5. The proposal does not provide sufficient or usable private open space

- a. The proposed new dwelling does not provide a minimum 100sqm of private open space.
- b. The proposed new dwelling does not provide sufficient usable private open space at a maximum 1: 8 grade (12.5 degrees) slope.
- c. Location in front yard results in poor accessibility and inadequate levels of privacy due to lack of screen planting.

6. The proposal is unacceptable with regard to inaccurate and incomplete information

Particulars:

- a. Invalid BASIX Certificate, generated from 2 incomplete BASIX Certificates.
- b. BASIX commitments are not detailed on the plans
- c. Elevations and Landscape plan are not to consistent scale.
- d. Inconsistencies noted within Landscape Plan
- e. Plans of existing dwelling not provided.

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

Against the Resolution: Councillor Hall

Councillor Hall withdrew

QUESTIONS WITHOUT NOTICE

254 **32 Marian Street, Killara - Waste Collection Bins**

File: EM00004/9

Question Without Notice from Councillor C Szatow

Why are the residents of the apartment block at 32 Marian Street, Killara still putting their garbage bins in the street?

Answer by the Director Development & Regulation

I will take that on notice because I have been on leave for sometime and I mean to follow that up.

255 **12 Woonona Avenue, Wahroonga - Acquisition Price**

File: S07257

Question Without Notice from Councillor E Malicki

When is this Council going to publicly release details of what was paid for 12 Woonona Avenue?

Answer by the Director Strategy & Environment

Council hasn't moved to released it at this stage, Mr Mayor, and until a Councillor moves to release it, it is still in confidential.

Question by Councillor Malicki

Do I have to do it by Notice of Motion or something like that?

Answer by the Mayor

It's still in confidential.

256 **Request of Jugs of Water at Council Meetings**

File: S02355

Question Without Notice from Councillor E Malicki

Can we go back to having jugs of water in the Chamber rather than bottled water, please?

Answer by the Mayor

The General Manager will handle that.

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

The Director Strategy & Environment, Andrew Watson, will arrange a suitable time for an Inspections Committee to take place at Water Street Park.

257 **Internal Audit Committee - Selection of Independent Community Members**

File: S06954

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).

Report by General Manager and Internal Ombudsman dated 2 November 2009.

Resolved:

(Moved: Councillors McDonald/Keays)

- A. That Mr John Gordon and Ms Violi Calvert be appointed as the independent community members for the Internal Audit Committee.
- B. That Mr Malcolm Yoong be placed on an eligibility list as a back up in the event that either of the above two candidates are unable to continue in their role at some point in the future.

CARRIED UNANIMOUSLY

The Meeting closed at 8.50pm

The Minutes of the Ordinary Meeting of Council held on 10 November 2009 (Pages 1 - 16) were confirmed as a full and accurate record of proceedings on 24 November 2009.

General Manager

Mayor / Chairperson