

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 12 AUGUST 2008

Present: The Mayor, Councillor N Ebbeck (Chairperson) (Wahroonga Ward)
Councillors A Andrew & E Malicki (Comenarra Ward)
Councillors L Bennett & T Hall (St Ives Ward)
Councillor I Cross (Wahroonga Ward)
Councillors M Lane & A Ryan (Gordon Ward)
Councillors M Shelley & J Anderson (Roseville Ward)

Staff Present: Acting General Manager (Greg Piconi)
Director Development & Regulation (Michael Miocic)
Director Strategy (Andrew Watson)
Director Community (Janice Bevan)
Acting Director Corporate (Tino Caltabiano)
Manager Corporate Planning & Sustainability (Peter Davies)
Senior Governance Officer (Geoff O'Rourke)
Minutes Secretary (Christina Randall-Smith)

The Meeting commenced at 7.00pm

The Mayor offered the Prayer

APOLOGIES

File: S02194

NOTE:

The General Manager, John McKee, tendered apologies for non-attendance.

The Director Corporate, John Clark, tendered apologies for non-attendance.

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.

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:

**Councillors
Information:**

Annual Report - Assumptions - Memorandum by Director Operations dated 29 July 2008 in response to a Question Without Notice raised by Councillor Laura Bennett at the Ordinary Meeting of Council held 22 July 2008.

Annual Report Criteria for Road Maintenance - Memorandum by Director Operations dated 29 July 2008 in response to a Question Without Notice raised by Councillor Laura Bennett at the Ordinary Meeting of Council held 22 July 2008.

St Ives Shopping Village - Vandalism - Memorandum by Director Operations dated 4 August 2008 in response to a Question Without Notice raised by Councillor Tony Hall at the Ordinary Meeting of Council held 22 July 2008.

Confidential

Agenda Information: **Refer GB.5 - 451 Mona Vale Road, St Ives - Sub-Lease to Honda Australia Motorcycles & Power Equipment Pty Ltd** - Attachments 3 & 4

Memorandums:

Refer GB.2 - Constitutional Referendum - Memorandum by the General Manager, John McKee dated 12 August 2008 regarding a Circular from the Electoral Commission regarding explanatory material for referendums.

Refer GB.2 - Constitutional Referendum - Memorandum by the General Manager, John McKee dated 12 August 2008 regarding campaign costs for popularly elected Mayors in the 2004 Election across the NSROC areas.

CONFIRMATION OF MINUTES

284 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 29 July 2008
Minutes numbered 259 to 283

Resolved:

(Moved: Councillors Ryan/Cross)

That Minutes numbered 259 to 283 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

PRESENTATION

The Mayor, Councillor N Ebbeck, presented cheques to the recipients of the Environmental Community Small Levy Grants Scheme - Round Six.

REPORTS FROM COMMITTEES

Minutes of Ku-ring-gai Traffic Committee

File: S02110

Meeting held 17 July 2008
Minutes numbered KTC8 to KTC11

285 **General Matter Items under Delegated Authority**

File: S02738

Vide Minute No KTC8

Advice on matters considered under Delegated Authority.

Resolved:

(Moved: Councillors Lane/Hall)

That the information regarding traffic facilities approved during April 2008 to June 2008 be noted.

CARRIED UNANIMOUSLY

286 **General Matter - Auslink Black Spot Program**

File: S06717

Ward: Wahroonga
Electorate: Ku-ring-gai
Vide Minute No KTC9

To consider sites for inclusion in the 2009/2010 Auslink Black Spot Program.

Resolved:

(Moved: Councillors Lane/Hall)

That a revised application be made to the 2009/2010 Auslink Black Spot Program for the intersection of Burns Road and Bobbin Head Road, Turramurra, following further discussions with the RTA regarding a preferred layout and funding options.

CARRIED UNANIMOUSLY

287

General Matter - Knox Garden Day 2008

File: S02250

Ward: Wahroonga

Electorate: Ku-ring-gai

Vide Minute No KTC10

To consider a request from Knox Grammar Senior School Mothers' Group to hold the annual "Knox Garden Day" in Ku-ring-gai Avenue on Friday, 12 September 2008.

Resolved:

(Moved: Councillors Lane/Hall)

That approval be given to Knox Grammar Senior School Mothers' Group to close Ku-ring-gai Avenue between 7.00am and 4.00pm to conduct its Knox Garden Day on Friday, 12 September 2008, subject to the following conditions:

- A. The Roads and Traffic Authority approving the Traffic Management Plan submitted by the Knox Grammar Senior School Mothers' Group and submission of an amended Traffic Control Plan for the Authority's approval.
- B. The closures 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.
- C. Residents of Ku-ring-gai Avenue and other streets in the vicinity being informed by a letter, via letterbox drop, undertaken by the Knox Grammar Senior School Mothers' Group, of Council's decision.
- D. The event organiser providing and maintaining all necessary signs, barricades and all other safety equipment at its expense to properly effect the changed traffic conditions required by the approved Traffic Management Plan.
- E. The event organiser provides adequate Roads and Traffic Authority accredited traffic control personnel to control traffic and parking in the event area, as suggested in the traffic study submitted by the applicant.
- F. The Local Area Commander Kuring-gai be requested to patrol the area and monitor traffic conditions during the event.

- G. Knox Grammar Senior School Mothers' Group supplying 20 million dollars Public Liability insurance cover, naming Ku-ring-gai Council as principal. A certificate of currency is to be sighted by Council's Director Operations before the event is approved.
- H. That a Regulatory Officer visits the site throughout the day to monitor traffic conditions to ensure Council's conditions of approval are being observed. They are to report any traffic congestion or other safety issues to Council's Director Operations within 30 days of the event.
- I. The Knox Grammar Senior School Mothers' Group responding in writing to Council by 29 August 2008, confirming its acceptance of Council's decision for conducting the 2008 Knox Garden Day.

CARRIED UNANIMOUSLY

288 **Station Street, Pymble**

File: 88/06073/03

Ward: St Ives

Electorate: Ku-ring-gai

Vide Minute No KTC11

The following member of the public addressed Council:

J Banek

Councillor Shelley arrived during address

To consider improvements to traffic conditions at the intersection of Station Street and Alma Street, Pymble.

Resolved:

(Moved: Councillors Hall/Lane)

That consideration of the matter be deferred and referred back to the Ku-ring-gai Traffic Committee for further consideration and comment to Council.

CARRIED UNANIMOUSLY

GENERAL BUSINESS

289 **451 Mona Vale Road, St Ives - Sub-Lease to Honda Australia Motorcycles & Power Equipment Pty Ltd**

File: P52792

To seek Council's approval to enter into a new sub-lease with Honda Australia Motorcycles and Power Equipment Pty Ltd for use of the H.A.R.T facility at 451 Mona Vale Road, St Ives.

Resolved:

(Moved: Councillors Shelley/Lane)

- A. That a further five year term with a five year option to the sub-lease of Lots 2844 and 2845, DP 822242 Mona Vale Road, St Ives be granted to Honda Australia Motorcycles and Power Equipment Pty Ltd for the operation of a road safety and training facility effective 19 August 2008, and subject to:
 - i. a new sub-lease reflecting commercial terms and conditions
 - ii. the new rental be negotiated within the determined range
 - iii. Ministerial approval of the terms and conditions of the new sub-lease.
- B. That the Mayor and General Manager be authorised to sign the sub-lease documentation.
- C. That the Common Seal of Council be affixed to all necessary documents associated with the sub-lease renewal.
- D. That Council be advised of the outcome of negotiations via a formal memorandum.

CARRIED UNANIMOUSLY

290

National Trust of Australia (NSW) - Heritage Advisory Services & Corporate Membership

File: S02792

To advise Council of requests from National Trust of Australia (NSW) for Council to register for Heritage Advisory Services (\$5,000) and/or for Council to purchase Corporate Membership of the National Trust of Australia (\$1,500, \$2,500 or \$3,500).

Resolved:

(Moved: Councillors Hall/Bennett)

That this matter stand deferred for further information.

CARRIED UNANIMOUSLY

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

(Moved: Councillors Andrew/Ryan)

That Council, in principle, provide \$5,000 to the National Trust of Australia, NSW to register for the Heritage Advisory Service from its Sponsorship budget, subject to Council receiving additional information about what benefits this service provides to Council.

291

Constitutional Referendum

File: S06203

To approve explanatory material for the constitutional referendum.

Resolved:

(Moved: Councillors Andrew/Hall)

That consideration of the matter be deferred until the next meeting of Council, with a meeting of interested Councillors to provide input into the Cases to be held in the interim.

For the Resolution: Councillors Andrew, Cross, Hall, Lane, Malicki, Shelley & Anderson

Against the Resolution: The Mayor, Councillor N Ebbeck, Councillors Bennett & Ryan

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

(Moved: Councillors Ryan/Lane)

- A. *That the explanatory information for the constitutional referendum be approved.*
- B. *That the information be made available to the public by:*
- *Inclusion on Council's website.*
 - *Information in Council's regular newspaper advertisements drawing attention to the availability of the document on Council's website.*
 - *Half page advertisements in the North Shore Times on Fridays, 5 and 12 September.*
 - *That the Yes/No Case be available outside all polling places on 13 September and at pre-poll locations.*
 - *That hard copies be left at Information Desks in Libraries and the Level 4 - Customer Service Counter of the Council Chambers.*
- C. *That the cost of the newspaper advertisements of \$4,800 be charged against the election cost.*

The LOST Amendment was:

(Moved: Councillors Malicki/Andrew)

That Council notify all voters by letter of the Yes/No Case or, that the Yes/No Case, as amended, be distributed outside all polling places on 13 September.

292

15 Merrivale Road, Pymble - Alterations & Additions

File: DA0553/08

Ward: St Ives

Applicant: Family Home Designers & Builders Pty Ltd

Owners: Mr U T & Mrs R N Mendis

To determine Development Application No 553/08 for alterations and additions to an existing dwelling house.

Resolved:

(Moved: Councillor Ryan/Lane)

THAT the Council, as the consent authority, grant development consent to DA0553/08 for alterations and additions on land at No 15 Merrivale Road Pymble, for a period of two (2) years from the date of the Notice of Determination subject to the following conditions:

CONDITIONS THAT IDENTIFY APPROVED PLANS:

1. Approved architectural plans and documentation (new development)

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:

<i>Plan no.</i>	<i>Drawn by</i>	<i>Dated</i>
0806 sheet 00 issue B	Family Home Designers & Builders	11 June 2008
0806 sheet 01 issue B	Family Home Designers & Builders	11 June 2008
0806 sheet 02 issue B	Family Home Designers & Builders	11 June 2008
0806 sheet 02-a issue B	Family Home Designers & Builders	11 June 2008
0806 sheet 03 issue B	Family Home Designers & Builders	11 June 2008
0806 sheet 04 issue B	Family Home Designers & Builders	11 June 2008
0806 sheet 05 issue B	Family Home Designers & Builders	11 June 2008
0806 sheet 06 issue B	Family Home Designers & Builders	11 June 2008
0806 sheet 07 issue B	Family Home Designers & Builders	11 June 2008
0806 sheet 08 issue B	Family Home Designers & Builders	11 June 2008
0806 sheet 09 issue B	Family Home Designers & Builders	11 June 2008

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

2. Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

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

3. No demolition of extra fabric

Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Reason: To ensure compliance with the development consent.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:**4. 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.

5. Notification of builder's details

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

Reason: Statutory requirement.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:**6. Carport roof**

The roof of the proposed carport is to be set below the eave/gutter line of the existing house and reduced in pitch to the minimum recommended by the manufacturer's specifications. Details are to be shown to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To maintain streetscape character and neighbour amenity.

7. Setback of first floor addition from north-western (front) boundary

The hipped roof form of the existing dwelling is to be retained by increasing the

setback of the first floor addition and associated theatre room from the front boundary by 2 metres. Details are to be shown to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To maintain the integrity of the existing façade.

8. First floor ensuite window

The first floor ensuite window on the north-eastern side elevation is to be of translucent glazing and its lower sash is to be fixed. Details are to be shown to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To maintain privacy to the adjoining property, No. 17 Merrivale Road.

9. Screen planting to north-eastern side boundary

A plan detailing screen planting to be provided along the north-eastern side setback adjacent to the ground floor deck (for the full length of the deck) is to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate. The screen planting shall consist of species suitable for the site conditions, with dense foliage, capable of growing to a mature height of 3 metres and being advanced specimens (25 litres pot size) at planting.

Reason: To maintain privacy to the adjoining property, No 17 Merrivale Road, Pymble.

10. Long service levy

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

Reason: Statutory requirement.

11. Builder's indemnity insurance

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

It is the responsibility of the applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of \$12,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than \$12,000, nor to work undertaken by persons holding an owner/builder's permit issued by the

Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

Reason: Statutory requirement.

12. Driveway crossing levels

Prior to issue of the Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development consent does not imply approval of footpath or driveway levels, materials or location within the road reserve, regardless of whether this information is shown on the development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

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

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

13. 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:

14. Approved plans to be on site

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

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

15. 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.

16. Demolition, excavation and construction work hours

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm 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 (i.e. concrete pours and standing of plant), approval for such 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 for 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. Construction signage

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken

- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m²
- are removed within 14 days of the completion of all construction works

Reason: To ensure compliance with Council's controls regarding signage.

22. Road reserve safety

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

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

23. 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 applicant's 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.

24. 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.

25. Drainage to existing system

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the existing site drainage system. 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.

26. 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.

27. 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.

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

28. 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. A36725 have been complied with.

Reason: Statutory requirement.

29. Infrastructure repair

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that any damaged public infrastructure caused as a result of construction works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council Development Engineer and at no cost to Council.

Reason: To protect public infrastructure.

For the Resolution: *The Mayor, Councillor N Ebbeck, Councillors
Andrew, Bennett, Cross, Lane, Malicki, Ryan,
Shelley & Anderson*

Against the Resolution: *Councillor Hall*

293

Endangered Ecological Communities - Vegetation Mapping

File: S06413

To report to Council opportunities to fund the mapping of critically endangered and endangered ecological communities for the preparation of the Local Environment Plan.

Councillor Shelley departed during discussion

Resolved:

(Moved: Councillors Malicki/Andrew)

That the funding for this project be provided by the Street Furniture Reserve.

CARRIED UNANIMOUSLY

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 241 OF GENERAL REGULATIONS

Councillors Malicki, Andrew & Bennett lodged a Rescission Motion concerning the confirmation of the Minutes of the Ordinary Meeting of Council held on 29 July 2008.

*The following item was dealt with after a Motion
moved by Councillor Malicki & the Mayor, Councillor Ebbeck
to have the matter dealt with at the meeting was CARRIED
& the Chairperson ruled Urgency*

*For the Urgency: The Mayor, Councillor N Ebbeck, Councillors
Andrew, Bennett, Cross, Lane, Malicki, Ryan &
Anderson*

Against the Urgency: Councillor Hall

294

Minutes of Ordinary Meeting of Council held on 29 July 2008

File: S06344

Notice of Rescission from Councillors Anita Andrew, Laura Bennett & Elaine Malicki dated 12/8/2008

We move:

"That the approval of the Minutes from the Ordinary Meeting of Council held on 29 July 2008 be hereby rescinded."

Resolved:

(Moved: Councillor Malicki/Mayor, Councillor Ebbeck)

- A. That the Notice of Rescission be adopted.

For Part A of the Resolution: The Mayor, Councillor N Ebbeck, Councillors Andrew, Bennett, Cross, Lane, Malicki, Ryan & Anderson

Against Part A of the Resolution: Councillor Hall

- B. That the Minutes numbered 259 to 283 circulated to Councillors were taken as read and confirmed as an accurate record of proceedings of the Ordinary Meeting of Council held on 29 July 2008 with the exception of Minutes numbered 268 & 269 which should read as follows:

Minute No 268

²⁶⁸ **Code of Conduct Matter - Prima Facie Code of Conduct Breach (e-Mail to External Parties)**

File: S06344

The following member of the public addressed Council:

R Dunn

Councillor Hall withdrew following address

To report to Council the Code of Conduct Committee's findings and recommendations in relation to a complaint lodged against Councillor Tony Hall relating to an e-mail sent on 21 April 2008.

Councillor Malicki withdrew during discussion**Resolved:**

(Moved: Councillor Andrew/Mayor, Councillor Ebbeck)

- A. That Council receive and note the contents of the report.
- B. That as per Clause 10.17 of the Code of Conduct, Councillor Hall be censured by the Council for misbehaviour, in accordance with Section 440G of the Local Government Act.
- C. That Council, under Section 11 of the Code of Conduct, refer the matter to the Department of Local Government seeking the Councillor's suspension due to this being the Councillor's second censure.

*For the Resolution: The Mayor, Councillor N Ebbeck,
Councillors Andrew, Cross, Lane, Ryan
& Anderson*

Against the Resolution: Councillor Shelley

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

(Moved: Councillors Shelley/Anderson)

That the matter be deferred until:

A. *After the hearing of this matter before the Courts; and*

B. An impartial Chair is in place.

Minute No 269

269 **Code of Conduct Matter - Prima Facie Code of Conduct Breach**
(e-Mail to Staff)

File: S06344

The following member of the public addressed Council:

R Dunn

To report to Council the Conduct Committee's findings and recommendations in relation to a complaint lodged against Councillor Tony Hall, relating to an e-mail sent to a staff member on 17 April 2008.

Resolved:

(Moved: Councillors Andrew/Cross)

- A. That Council receive and note the contents of the report.
- B. That as per Clause 10.17 of the Code of Conduct, Councillor Hall be censured by the Council for misbehaviour, in accordance with Section 440G of the Local Government Act.
- C. That Council, under Section 11 of the Code of Conduct, refer the matter to the Department of Local Government seeking the Councillor's suspension due to this being the Councillor's third censure.
- D. That as from today, the Councillor must send all communications for Council Staff or Directors via the General Manager.
- E. That, additionally, the General Manager sends to the Department of Local Government for consideration, under Section 11.6 of the Code of Conduct, the e-mail and subsequent correspondence, that was

written by Councillor Hall on Tuesday, 8 July 2008, which was copied to the Department of Planning.

For the Resolution: *The Mayor, Councillor N Ebbeck, Councillors Andrew, Cross, Lane, Ryan & Anderson*

Against the Resolution: *Councillor Shelley*

For Part B of the Resolution: *The Mayor, Councillor N Ebbeck, Councillors Andrew, Bennett, Cross, Lane, Malicki, Ryan & Anderson*

Against Part B of the Resolution: *Councillor Hall*

QUESTIONS WITHOUT NOTICE

295 **Walker Avenue, St Ives Intersection - Restricted Traffic Turns**

File: 88/06176/03

Question Without Notice from Councillor T Hall

I ask the Director Operations that in view of my representations in January on behalf of David Suransky of 343 Mona Vale Road, would he kindly refer the traffic problems he raised at this intersection again with the RTA and the local State Member of Parliament for further advice, please?

Answer by the Acting General Manager

We did write to the RTA. We are in the process of following it up today. We will have further follow-ups with the RTA on the matter and I will report back to Council on the matter.

296 **328 Kissing Point Road, Turramurra - DA Consent**

File: DA0423/99-6

Question Without Notice from Councillor T Hall

I table a Council letter dated 30 July 2008 addressed to Mr and Mrs Chhabra of 328 Kissing Point Road, Turramurra, requesting the owners to provide a survey report of the location of their new house at the request of the adjoining owner.

Would the Acting General Manager investigate this matter and ascertain whether the complaint is vexatious or not and whether Council, having passed the various stages of construction of the nearly completed house has authority to make this request anyway?

Answer by the Director Development & Regulation

I will take that on notice.

297 Bushland, Catchments & Natural Areas Reference Group - Recognition of Committee Member

File: S03448

Question Without Notice from Councillor E Malicki

Mrs Margaret Booth has been a member of the Council's Bushland Committee since 1978.

Can she be given some sort of recognition, please?

Answer by the Mayor

Happy to arrange something, definitely.

The Meeting closed at 8.50pm

The Minutes of the Ordinary Meeting of Council held on 12 August 2008 (Pages 1 - 21) were confirmed as a full and accurate record of proceedings on 26 August 2008.

General Manager

Mayor / Chairperson