

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 2 SEPTEMBER 2008

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

Staff Present: General Manager (John McKee)
Director Corporate (John Clark)
Director Development & Regulation (Michael Miocic)
Director Operations (Greg Piconi)
Director Strategy (Andrew Watson)
Director Community (Janice Bevan)
Senior Governance Officer (Geoff O'Rourke)
Minutes Secretary (Christina Randall-Smith)

The Meeting commenced at 7.02pm

The Mayor offered the Prayer

316 APOLOGIES

File: S02194

Councillor L Bennett tendered an apology for non-attendance [family illness] and requested leave of absence.

Resolved:

(Moved: Mayor, Councillor Ebbeck/Councillor Andrew)

That the apology by Councillor L Bennett 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.

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:** **Minutes of Ordinary Meeting of Council** - Meeting held 26 August 2008
- Refer GB.6 - Funding for Town Centres LEP (Planning Panel)** - (In Business Paper 17/08, wording for Report title is "Funding for Planning Panel Projects") - Report by Director Strategy dated 28 August 2008.
- Councillors Information:** **Mona Vale Road at Walker Street - Turn Restrictions** - Memorandum by the Director Operations dated 28 August 2008 in response to a Question Without Notice raised by Councillor Tony Hall at Ordinary Meeting of Council held 12 August 2008.
- Bus Route 582 - Reinstatement of Barra Brui Loop, St Ives** - Memorandum by Director Operations dated 1 September 2008 in response to a Question Without Notice raised by Councillor Tony Hall at Ordinary Meeting of Council held 26 August 2008.
- Section 96 Applications** - Memorandum by Director Development & Regulation dated 1 September 2008 in response to a Question Without Notice raised by Councillor Laura Bennett at Ordinary Meeting of Council held 17 July 2007.
- Memorandum:** **ABC TV Stateline Program - 15 August 2008 - "The Rape of Ku-ring-gai"** - Memorandum by Director Strategy dated 2 September 2008 in response to a Question Without Answer raised by Councillor Tony Hall at Ordinary Meeting of Council held 26 August 2008.

CONFIRMATION OF MINUTES

317 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 26 August 2008
Minutes numbered 298 to 315

Resolved:

(Moved: Councillors Lane/Hall)

That Minutes numbered 298 to 315 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR

318 **Review of Council's Term**

File: S02049

Councillor Malicki withdrew during Mayoral Minute

Councillor Shelley arrived

As this is the final meeting of the current Council, I would like to recap on the past four-and-a-half years and acknowledge the efforts of those who have helped make this term productive, memorable and challenging.

The term began in March 2004 with the election of six new Councillors.

This presented a very steep and quick learning curve for each of the new councillors including the new Mayor, Councillor Ryan, and the new Deputy Mayor, Councillor Shelley.

The senior management team was very different back then, with Brian Bell as General Manager and now departed directors Leta Webb and Steven Head.

In 2005, we had a new Mayor in Councillor Malicki with me as her Deputy. The following year was a momentous one as Council marked its Centenary with a number of memorable events including a ceremony attended by NSW Governor Marie Bashir.

In 2006, John McKee was appointed to replace the Lake Macquarie-bound Brian Bell as General Manager, while later in the year I was elected Mayor with Councillor Andrew as my very able and supportive Deputy.

This current Council has had to deal with some challenging and difficult issues, focused mainly on the State Government's push for medium density housing in Ku-ring-gai.

When we were elected in March 2004, one of our major responsibilities was to develop our residential strategy to provide for new housing as part of our commitments under the State Government's Metropolitan Strategy.

We had also used this opportunity to devise plans for the long-term revitalisation of Ku-ring-gai's six major Town Centres. Council put significant resources into developing these plans including widespread community consultation.

But in early 2008, we were confronted with the Government's decision to impose an externally appointed planning panel.

Council resolved to challenge the validity of the panel in the Land and Environment Court. Unfortunately, this challenge was unsuccessful, but we owed it to our residents to stand up to the Government and fight this unjust decision.

Despite these setbacks, Council has worked constructively on planning issues and aimed to ensure new development incorporates high quality design consistent with Ku-ring-gai's existing character.

This Council has also done a lot of work developing a long-term facilities blueprint to ensure Ku-ring-gai gets modern community facilities.

Plans are well underway for a new aquatic centre with Ku-ring-gai's first indoor public pool at Bicentennial Park, West Pymble. Work has also progressed on the long-term North Turramurra Recreation project that will include three new playing fields and other recreational facilities. Council is also reviewing options for modernising and upgrading Killara's Marian St Theatre, a Sydney icon for the dramatic arts, particularly young people's theatre.

Our Open Space Acquisition Strategy is ensuring we have sufficient new open space to cater for major population increases in coming years. As part of this, Council has acquired three properties in Dumaresq St, Gordon, to turn into a much-needed new park for Gordon town centre.

I'm proud of the current Council's efforts to improve and protect Ku-ring-gai's single most valuable asset – its natural environment. Our environmental levy is enabling us to undertake a wide range of local projects in areas such as stormwater harvesting, bush and waterway regeneration and construction of fire trails to reduce bushfire threats.

Council has done extensive community consultation towards setting Ku-ring-gai's Sustainability Plan, which will put all of our activities on a long-term sustainable footing. We have also set up a new Sustainability Reference Group to guide Council decision-making on sustainability issues. It comprises a broad cross-section of members including environmental experts, urban planners, residents and school students.

Other recent initiatives include a new program to remove graffiti from private and public property in our town centres, the introduction of e-zones – one-stop shops bundling together IT services in our libraries – and a new on-line DA tracking service which allows applicants to check the progress of their DAs on our website.

Looking back over the past four and a half years, Council has also:

- Introduced a new waste and recycling service which has further boosted Ku-ring-gai's recycling rate.
- Helped set up the Ku-ring-gai Youth Development Service which is providing a wide range of free counselling services to local youth.

- Established Festival on the Green as Ku-ring-gai's highly successful annual community celebration.
- Launched a new Council website with a range of new interactive, user-friendly features.
- Introduced a new corporate image based on Ku-ring-gai's famous Blue Gum High Forest.
- Fast-tracked improvements to Ku-ring-gai's roads network through the roads infrastructure levy.
- Lobbied with the community and the State and Federal Government to purchase two properties on Rosedale to help secure the future of the largest stand of Blue Gum High Forest.

Now I would like to run through my list of "thank you's" to all the wonderful staff who have provided invaluable professional advice and support to Councillors over the past four and a half years.

We have a highly talented and hard-working senior management team led by John McKee and comprising Greg Piconi, Michael Miocic, Janice Bevan, John Clark and Andrew Watson.

They in turn have been well supported by their managers and staff across the wide array of services we provide, from our libraries, parks and child care centre to our development assessment and strategic planning teams, finance, roads and traffic areas and communications.

I also want to make special mention of the personal assistants who play such a vital role in the smooth administration of Council: Sigrid Banzer, Carmel Hughes and Christine Foott.

While we've all had our moments, I genuinely believe that 11 Councillors have worked together constructively and achieved many good things for our community.

I thank all Councillors for their efforts and contributions over the past four and a half years. I also wish the two Councillors who definitely won't be part of the new Council, Councillors Andrew and Shelley, all the best for their future endeavours.

Finally, I would like to say what a privilege and honour it has been to have served this community as a Councillor, Deputy Mayor and Mayor.

I have had an opportunity to work with some wonderful people and hopefully make a decent and lasting contribution to a community that just a few weeks ago was judged to have the highest standard of living in the nation.

Resolved:

That the Mayoral Minute be received and noted.

CARRIED UNANIMOUSLY

Councillor Malicki returned

PETITIONS

319 **West Lindfield Shopping Centre - Request for Prominent Signage
regarding Name of Centre & Services offered - (Twenty [20] Signatures)**

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File: S03477

"As businesses of the West Lindfield Shopping Centre, Moore Avenue, West Lindfield, we, the undersigned, would like to see prominent signage for the Shopping Centre and the services offered.

The sign could be situated on the corner of Lady Game Drive and Moore Avenue, West Lindfield."

Resolved:

(Moved: Councillors Shelley/Anderson)

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

CARRIED UNANIMOUSLY

GENERAL BUSINESS

320 **Proposed Drainage Easement over Council Land at Princes Lane,
Turramurra (Irish Town Reserve) - Applicant at 10 Buckra Street,
Turramurra**

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File: REV0019/08

For Council to consider granting a drainage easement over Council land known as Irish Town Reserve (Turramurra) to the applicant at 10 Buckra Street, Turramurra.

Resolved:

(Moved: Councillors Shelley/Cross)

That Council approves the granting of the proposed drainage easement over Council land known as Irish Town Reserve to the applicant at 93 Bannockburn Road, Turramurra, subject to the terms and conditions of this report, public notification in accordance with the Local Government Act (1993) and the following conditions:

- A. Council issue a public notice as prescribed by Section 47 of the Local Government Act 1993.
- B. That Council authorise the Mayor and General Manager to sign the documentation associated with the proposed easement, should no substantial objections be received following the public notice.
- C. That Council authorise the affixing of the Common Seal to the documentation associated with the proposed easement, should no substantial objections be received following the public notice.
- D. A report be brought back to Council if there are any substantial objections through the period of public notice.
- E. The pipe within the easement to be laid in accordance with the ACOR Appleyard Drawing 382489/C3 Issue 2 dated 4/2008, and the following conditions.
 - a. During the works, no hazards are to be presented to the public who access the park. This means that the area is to be adequately fenced and lighted to prevent access.
 - b. Council is to be indemnified against any claims in connection with the said works.
 - c. Fence restoration is to be at the full cost of the applicant.
 - d. No materials or equipment are to be stored on Council property. All materials or equipment are to be stored within 10 Buckra Street.
 - e. All machinery and vehicle access is to be exclusively via 10 Buckra Street and not the Council Park.
 - f. The site is to be returfed at the end of the works at the full cost of the applicant.
 - g. At least 2 weeks prior to any works, Council's Parks Manager Mark Hancock is to be notified. Any further directions of Mr Hancock are to be complied with.
 - h. The applicant or the applicant's contractor shall ensure that there is adequate Worker's Compensation policy in force for the staff carrying out the work, and shall supply a copy of such policy to Council prior to the commencement of work.
 - i. The applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with Ku-ring-gai Council as principal, and keep such policy in force at the applicant's own

expense. A certificate from the applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.

- j. The applicant shall give Council **a minimum of 48 hours notice** of the intention to commence work by contacting Council's Development Engineer on 9424 0894 during office hours. Failure to do so may result in rejection of works already completed.
- k. At least 72 hours prior to the commencement of works the Contractor is to erect a prominent sign on-site advising of the Contractor's name and a 24 hour telephone contact number.

CARRIED UNANIMOUSLY

321 **Funding for Town Centres LEP (Planning Panel)**

File: S06413

To provide information to Council of the potential additional costs in servicing the Ku-ring-gai Planning Panel and associated projects to complete the comprehensive Local Environmental Plan (LEP) for the Town Centres by mid 2009.

Resolved:

(Moved: Councillors Shelley/Lane)

- A. That Council determines not to commence the following projects in the 2008 to 2009 Financial Year:
 - i. Wahroonga Centre Masterplan as part of the comprehensive LEP (\$30,000)
 - ii. Killara Centre Masterplan as part of the comprehensive LEP (\$30,000).
- B. That Council notes the likely costs of completing the Town Centres LEP and that funding up to \$405,000 be discussed in the first quarter review.

CARRIED UNANIMOUSLY

*Standing Orders were suspended to deal with
GB.3 - Council Sponsorship for Carols in the Park &
the Ku-ring-gai Philharmonic Orchestra
after a Motion moved by
Councillors Cross & Lane was CARRIED UNANIMOUSLY*

322

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

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File: S05650

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

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

Resolved:

(Moved: Councillors Ryan/Cross)

- 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 2008-2009 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

323

Delegation of Authority

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File: S02355

For Council to give consideration to the issue of Delegations during the period between the last Council meeting and the Election of Mayor in the new Council.

Resolved:

(Moved: Councillors Malicki/Andrew)

- A. That the Mayor exercise those powers as granted in Section 226 of the Local Government Act 1993 in a caretaker capacity until such time as the new Mayor is elected.
- B. That the General Manager, John McKee, and the Mayor, Councillor Nick Ebbeck, be granted Delegated Authority to exercise all powers, authorities, duties and functions of Council except those that are set out in Section 377 of the Local Government Act 1993 for the period 3 September 2008 until the election of the Mayor of the new Council subject to the following conditions:

1. Such powers, authorities, duties and functions may only be exercised by the Mayor and General Manager jointly and any decision of the General Manager whether or not to exercise any such power, authority, duty or function or as to the manner of such exercise shall not be subject to any direction by the Mayor.
 2. Any such power, authority, duty or function shall only be exercised by the Mayor and General Manager jointly where they are both of the opinion that the exercise of any such power, authority, duty or function could not be deferred until a meeting of the new Council.
- C. That no legal proceedings be commenced by the Mayor or General Manager that would normally require formal resolution of the Council.

CARRIED UNANIMOUSLY

324

Constitutional Referendum - Explanatory Information

File: S06203

To approve explanatory information for the Constitutional Referendum.

Resolved:

(Moved: Councillor Hall/Mayor, Councillor Ebbeck)

- A. That Council adopt Option C, as amended (**attached**) for the explanatory information for the constitutional referendum.
- B. That the approved explanatory 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.
 - That full page advertisements in the North Shore Times on Wednesday, 10 September 2008 and Friday, 12 September 2008 and the Hornsby Advocate on Thursday, 11 September 2008 costing approximately \$6,200 in total.
 - Copies available at Council's Customer Service Centre and Libraries.

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

Against the Resolution: *Councillors Malicki & Shelley*

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

(Moved: councillors Andrew/Shelley)

- A. *That Council adopt Option C for the explanatory information for the constitutional referendum.*
- B. *That the approved explanatory 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 Wednesday, 10 September 2008 and Friday, 12 September 2008 and the Hornsby Advocate on Thursday, 11 September 2008 costing approximately \$6,200 in total.*
 - *Copies available at Council's Customer Service Centre and Libraries.*

325

Lindfield Station Upgrade - Proposal for a Site Works Compound rear of Lindfield Community Centre Tennis Courts

File: 88/05900/04

For Council to consider the granting of a temporary access permit or a 12 month licence to Arengo (NSW) Pty Ltd on behalf of RailCorp for the establishment of a temporary works compound in association with works being carried out at Lindfield Railway Station.

Resolved:

(Moved: Councillors Shelley/Lane)

- A. That Council approve the granting of a temporary licence to Arengo (NSW) Pty Ltd subject to successful negotiation of the agreed commercial licence fee.
- B. That the Mayor and General Manager be authorised to execute all documentation.
- C. That the Seal of Council be affixed to all necessary documents.

CARRIED UNANIMOUSLY

QUESTIONS WITHOUT NOTICE**326 Formation of a Municipal Brass Band**

File: S04133

Question Without Notice from Councillor T Hall

I ask that Council consider the formation of a municipal-sponsored brass band in view of the many musicians that reside in Ku-ring-gai and might be called on to take part and that the proposal be brought to the notice of the new Council for its consideration?

Answer by the Director Community

We certainly can.

327 JJC Bradfield Museum

File: S05561

Question Without Notice from Councillor T Hall

I ask that Council consider the establishment of a Museum in the Ku-ring-gai municipality to recognise and display the work and life of Dr JJC Bradfield, one of this Country's greatest engineers and a local resident. His grandson, Peter Bradfield, the Trustee, has concurred in this proposal when I met with him last month?

I ask that the Museum proposed be referred to the new Council for consideration?

Answer by the Director Community

We will certainly consider it.

328 Appreciation of Staff

File: S04262

Question Without Notice from Councillor A Ryan

You said this was the opportunity to say thank you and I would like to take that opportunity if I'm supposed to ask through you to the General Manager to pass on my gratitude, Mr Mayor.

I've done a lot of things in my life and a lot of things, things that I've done that have had huge highs and huge lows and I think this probably takes the 'biscuit' this one but I absolutely know that it has certainly been a time in my life when I have learned an extraordinary amount, probably more than I've learnt at any other, certainly in four

years of my life. I know that I've never, I've never shied away from the fact that I'm a supporter of the staff and I am a great believer in the fact that not one Councillor could achieve anything at all if it wasn't for the support we do get from the staff and I don't just mean the Directors. I mean their Managers and the Staff all the way down to whatever is down. They are an amazing bunch and I was in pre-poll yesterday and somebody did come up to me and that was the one thing he wanted to talk about was the extraordinary staff that we have and how lucky we are and we better make sure we do everything to hang on to them. So, it's been for me an absolute honour and a privilege. I have no idea if I'm coming back or not, I certainly hope I am. It's certainly painful going through this process but I do thank you all very much indeed for this experience.

Answer by the Mayor

Well said Councillor.

329 Appreciation of Staff

File: S04262

Question Without Notice from Councillor M Shelley

Would the General Manager thank the Staff for the support that they have given to me during the four and a half years of my term as a Councillor?

I would like to particularly thank Ms Foott, Ms Seaton, Mr Davies, Mr Piccolli, Mr Houseas and the Youth Services team.

Answer by the General Manager

Happy to, Councillor Shelley.

330 Appreciation to Staff

File: S04262

Question Without Notice from Councillor A Andrew

Would the General Manager pass on my thanks to all the Staff for their assistance to me in the last four and half years?

I have been impressed with their dedication and their skills that they bring to their rolls and they have taught me an awful lot. I would also like to thank all the Councillors around this table and including Councillor Innes for the opportunity to work with you over the last four and a half years. I think we have all learnt a lot, together, and we have all grown as individuals. We haven't necessarily agreed on everything. In particular, I would like to identify two Councillors, I would like to identify Councillor Ebbeck, who two years ago twisted my arm to get me to run as Deputy Mayor and now I can come out and tell you what our agreement was. The agreement was, we were two parts of it, not only one part of it - Number 1 that he

doesn't get sick or die in office because I don't want to have to chair a meeting and he actually kept his side of the agreement and, as I understand, he's actually not missed a Council meeting in four and a half years which is quite something and the other Councillor I would like to identify is Councillor Malicki who gave me the opportunity to be here and to be part of this. She gave me the opportunity to make a start, to learn about local government, to meet all of you and also to meet a whole range of community people, the volunteers we have and all the community groups that I would never have had the opportunity to do without that and I thank you.

Answer by the Mayor

Thank you Councillor, well said.

331 **Referendum Information**

File: S06203

Question Without Notice from Councillor I Cross

I'll start by saying, I've thanked the Staff all the way through, over the last four and half years. I don't have to panic on the last meeting and tell them how great they are. They already know what I think.

How quickly will Council be able to print the information on the referendum to enable handing out?

Answer by the General Manager

As I understand it, Council's resolution tonight doesn't allow for handing out on the day. It's just the full page ads and it will go on the website.

Answer by Director Corporate

It is available in the Customer Service and in Libraries. That is only the hard copy that will be of it.

The Meeting closed at 8.16pm

The Minutes of the Ordinary Meeting of Council held on 2 September 2008 (Pages 1 - 14) were confirmed as a full and accurate record of proceedings on 30 September 2008.

General Manager

Mayor / Chairperson

**Option C - Explanatory Information for the Constitutional Referendum
(Refer Minute No 324)**

The YES case for election of the Mayor by the electors	The NO case for election of the Mayor by the electors
<ul style="list-style-type: none"> Electors should be able to vote for the person they want to be Mayor. 	<ul style="list-style-type: none"> Mayoral candidates may be restricted to those with political or financial backing sufficient to mount a Ku-ring-gai wide campaign if they are to be elected by all voters.
<ul style="list-style-type: none"> It provides a greater level of involvement and participation by the electors. 	<ul style="list-style-type: none"> Candidates for Mayor may be limited to those with independent income to support the necessary time commitment for a four year term.
<ul style="list-style-type: none"> The Mayor is chosen for personal attributes rather than alliances with other Councillors. 	<ul style="list-style-type: none"> A Mayor elected by Council is “the first among equals”. A popularly elected Mayor has a mandate independent of the Council and is unaccountable to the Council.
<ul style="list-style-type: none"> There will be more direct accountability to the electorate by the Mayor. 	<ul style="list-style-type: none"> Positions such as Prime Minister and Premier are not directly elected by the electors.
<ul style="list-style-type: none"> The Mayor will have an opportunity to influence planning and policy decisions in the longer term. 	<ul style="list-style-type: none"> The popularly elected Mayor will be unaccountable to the voters for a four year period until the next election.
<ul style="list-style-type: none"> There will be continuous leadership of the Council for the four year term. 	<ul style="list-style-type: none"> Councillors are in a better position to assess individual capabilities and performance to determine the best Mayor.
<ul style="list-style-type: none"> It avoids any politicking amongst Councillors prior to the annual election of Mayor. 	<ul style="list-style-type: none"> If the Mayor proves unsuitable, he/ she cannot be removed by the voters for four years.
<ul style="list-style-type: none"> The settling in time for the Mayor is restricted to just once every four years. 	<ul style="list-style-type: none"> If the Mayor needs to step down early, a by-election will be necessary.
<ul style="list-style-type: none"> An odd number of Councillors will reduce the frequency of a tied vote - currently needs to be broken by a second (casting) vote of the Mayor. 	
<ul style="list-style-type: none"> The consequential increase in the number of Councillors provides electors with greater representation. 	