

## MINUTES OF EXTRAORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 15 JULY 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: General Manager (John McKee)  
Director Corporate (John Clark)  
Director Development & Regulation (Michael Miodic)  
Director Operations (Greg Piconi)  
Director Strategy (Andrew Watson)  
Manager Urban Planning (Antony Fabbro)  
Team Leader Urban Design (Bill Royal)  
Infrastructure Co-ordinator (Kate Paterson)  
Director Community (Janice Bevan)  
Senior Governance Officer (Geoff O'Rourke)  
Minutes Secretary (Christina Randall-Smith)

*The Meeting commenced at 7.03pm*

### 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.

#### EMC226 **Confirmation of Reports to be Considered in Closed Meeting**

File: S02499

#### **Resolved:**

(Moved: Councillors Bennett/Malicki)

- A. 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 **Open Space Acquisition Strategy - Identification of Potential Sites for Acquisition by Council - Final Report** - Report by Director Strategy dated 3 July 2008.

- C.2 **Turramurra - Proposal to Acquire Open Space** - Report by Director Strategy dated 7 July 2008.
- B. That Table 7 - Summary of Recommended Acquisitions - by Centre in the Open Space Acquisition Strategy Final Report (Refer C.1) be released to the Press and Public with an explanation.

### **CARRIED UNANIMOUSLY**

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

*(Moved: Councillors Ryan/Lane)*

*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 Open Space Acquisition Strategy - Identification of Potential Sites for Acquisition by Council - Final Report** - Report by Director Strategy dated 3 July 2008.

**C.2 Turramurra - Proposal to Acquire Open Space** - Report by Director Strategy dated 7 July 2008.

### **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:

**Refer GB.1: Draft Ku-ring-gai Town Centres Development Contribution Plan, Draft Amendments to the Adopted 2004 to 2009 Section 94 Contributions Plan - Residential Development & the Draft Planning Agreement Policy**

Memorandum by Director Strategy dated 10 July 2008 regarding Recommendation A.(iv).

**Memorandums: Refer GB.1 - Draft Ku-ring-gai Town Centres Development Contribution Plan, Draft Amendments to the Adopted 2004 to 2009 Section 94 Contributions Plan - Residential Development & the Draft Planning Agreement Policy**

Memorandum by Director Strategy dated 15 July 2008 regarding Page 68 of the Business Paper.

**Refer C.1 - Open Space Acquisition Strategy - Identification of Potential Sites for Acquisition by Council - Final Report**

Memorandum by Director Strategy dated 8 July 2008 regarding A3 size Attachments to the Confidential Report.

**Refer C.2 - Turramurra - Proposal to Acquire Open Space**

Confidential Memorandum by Director Strategy dated 8 July 2008 regarding A3 size of Attachment 3.

Memorandum by Manager Strategic Assets & Services dated 15 July 2008 regarding incorrect file references on the report.

Letter from Deacons dated 15 July 2008 regarding advice on Confidential Report & Closed Meeting.

**GENERAL BUSINESS**

EMC227 **Draft Ku-ring-gai Town Centres Development Contribution Plan, Draft Amendments to the Adopted 2004 to 2009 Section 94 Contributions Plan - Residential Development & the Draft Planning Agreement Policy**

File: S04495

To present the Draft Town Centres Development Contributions Plan, Draft Amendments to the adopted 2004-2009 Contributions Plan (to be known as Amendment Two) and the draft Planning Agreement Policy to Council for adoption following exhibition.

**Resolved:**

(Moved: Councillors Ryan/Lane)

A. That Ku-ring-gai Town Centres Development Contributions Plan (2008) be adopted with the amendments as set out below and brought into force by way of publication in the local newspapers within 28 days:

- (i) Amend the draft Town Centres Development Contributions Plan by deleting the fourth paragraph only (including dot points) of clause 2.6 and insert the following:

*This includes development of areas envisaged under the following in force and draft environmental planning instruments:*

- *Ku-ring-gai Local Environmental Plan 194*
- *Ku-ring-gai Local Environmental Plan 200; and*
- *The development potential envisaged for the Town Centres under the current Draft Ku-ring-gai Local Environmental Plan for the Town Centres.*

*Note: In the event that additional development potential and demand is added to any subsequent planning instrument, there will be a consequential amendment to the Town Centres Contributions Plan to*

*address both additional yield and additional demand arising as a result of that additional yield.*

- (ii) Amend the draft Town Centres Development Contributions Plan (2008) by amending the savings provision at Clause 2.21 to read as follows:

*A development application that has been submitted prior to the adoption of this plan but not determined shall be determined in accordance with the provisions of the plan or plans which applied at the date the development application was lodged.*

- (iii) Amend the draft Ku-ring-gai Town Centres Development Contributions Plan (2008) to delete the car parking works which give rise to a car parking contribution and all consequential modifications (text, contribution rates, works program and works program maps) to effect that deletion be undertaken.
- (iv) Undertake any other essential typographical modifications to the draft Contributions Plan e.g. inserting the date of adoption at 2.5, deleting references to 'draft', ensuring the works program maps reflect the works program as adopted by Council and that numbering is sequential, and the like.
- B. That amendments to the currently in force *Ku-ring-gai Council Section 94 Contributions Plan 2004-2009 Residential Development – Amendment One* be adopted as Amendment Two and brought into force by way of publication in the local newspapers within 28 days.
- C. That *Ku-ring-gai Planning Agreement Policy 2008* be adopted as a policy of the Council and added to the Policy Register.
- D. That Council reiterate its commitment to maintaining the current levels of public car parking provision in each of the Town Centres.

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

*Against the Resolution:   Councillors Bennett, Hall & Malicki*

*The above Resolution was subject to two Amendments which were LOST. The First Lost Amendment was:*

*(Moved: Councillors Hall/Bennett)*

- A. *That Ku-ring-gai Town Centres Developer Contributions Plan (2008) be deferred for further consideration by the incoming Council.*
- B. *That amendments to the currently in force Ku-ring-gai Council Section 94 Contributions Plan 2004-2009 Residential Development – Amendment One be adopted as Amendment Two and brought into force by way of publication in the local newspapers within 28 days.*

- C. *That Ku-ring-gai Planning Agreement Policy 2008 be adopted as a policy of the Council and added to the Policy Register.*
- D. *That Council reiterate its commitment to maintaining the current levels of public car parking in town centres.*

*The Second Lost Amendment was:*

*(Moved: Councillors Malicki/Andrew)*

- A. *That Ku-ring-gai Town Centres Development Contributions Plan (2008) be adopted with the amendments as set out below and brought into force by way of publication in the local newspapers within 28 days:*

- (i) Amend the draft Town Centres Development Contributions Plan by deleting the fourth paragraph only (including dot points) of clause 2.6 and insert the following:*

*This includes development of areas envisaged under the following in force and draft environmental planning instruments:*

- Ku-ring-gai Local Environmental Plan 194*
- Ku-ring-gai Local Environmental Plan 200; and*
- The development potential envisaged for the Town Centres under the current Draft Ku-ring-gai Local Environmental Plan for the Town Centres.*

*Note: In the event that additional development potential and demand is added to any subsequent planning instrument, there will be a consequential amendment to the Town Centres Contributions Plan to address both additional yield and additional demand arising as a result of that additional yield.*

- (iii) Amend the draft Ku-ring-gai Town Centres Development Contributions Plan (2008) to delete the car parking works which give rise to a car parking contribution and all consequential modifications (text, contribution rates, works program and works program maps) to effect that deletion be undertaken.*
- (iv) Undertake any other essential typographical modifications to the draft Contributions Plan e.g. inserting the date of adoption at 2.5, deleting references to 'draft', ensuring the works program maps reflect the works program as adopted by Council and that numbering is sequential, and the like.*

- B. *That amendments to the currently in force Ku-ring-gai Council Section 94 Contributions Plan 2004-2009 Residential Development – Amendment One be adopted as Amendment Two and brought into force by way of publication in the local newspapers within 28 days.*

- C. *That Ku-ring-gai Planning Agreement Policy 2008 be adopted as a policy of the Council and added to the Policy Register.*
- D. *That Council reiterate its commitment to maintaining the current levels of public car parking provision in each of the Town Centres.*

*Council resolved itself into Closed Meeting with the Press and Public Excluded to deal with the following items after a Motion moved by Councillors Shelley & Anderson*

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

*Against the Motion: Councillors Bennett & Hall*

EMC228 **Open Space Acquisition Strategy - Identification of Potential Sites for Acquisition by Council - Final Report**

File: S04601

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

Section 10(A) 2(c) of the Act permits the meeting to be closed to the public for business relating to:

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

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

Report by Director Strategy dated 3 July 2008.

**Council adjourned for a short interval at 9.25pm  
after a Motion moved by the Mayor, Councillor Ebbeck & Councillor Shelley  
was CARRIED and the Chairperson ruled accordingly.**

*For the Adjournment: The Mayor, Councillor N Ebbeck, Councillors Andrew, Bennett, Cross, Hall, Lane, Malicki, Shelley and Anderson*

*Against the Adjournment: Councillor Ryan*

**The Meeting resumed at 9.50pm**

Those present were:

The Mayor, Councillor N Ebbeck  
Councillor Anderson  
Councillor Andrew  
Councillor Bennett  
Councillor Cross  
Councillor Hall  
Councillor Lane  
Councillor Malicki  
Councillor Ryan  
Councillor Shelley

**Resolved:**

(Moved: Councillors Ryan/Lane)

- A. That Council adopt the preferred locations for new parkland, as amended, within the priority catchments as set out in the confidential officer's report considered at the Extraordinary Council meeting of 15 July 2008.
- B. That Council adopt the amendments to the Ku-ring-gai Town Centres Development Control Plan as set out in the Officer's report considered at the Extraordinary Meeting of Council of 15 July 2008 and that these be publicly exhibited and reported back to Council in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and Regulations.

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

*Against Parts A & B of the Resolution:*      *Councillor Hall*

- C. That Council adopt the amendments to the Council Depot Master Plan as set out in the Officer's report considered at the Extraordinary Meeting of Council of 15 July 2008 and that these be publicly exhibited and reported back to Council.

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

*Against Part C of the Resolution:*      *Councillors Bennett & Malicki*

EMC229 **Turrumurra - Proposal to Acquire Open Space**

Files: S04601, P41342

In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, the following

business is of a kind as referred to in section 10A(2)(c) of the Act, and was dealt with in a part of the meeting closed to the public.

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

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

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

Report by Director Strategy dated 7 July 2008.

**Resolved:**

(Moved: Councillors Andrew/Malicki)

That Council proceed in the manner outlined in the report.

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

*Against the Resolution:    Councillor Hall*

*To Open Council*

The General Manager adverted to the consideration of the matters referred to in the Minutes numbered 228 to 229, and to resolutions contained in such Minutes.

**Councillor Hall departed**

**BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 241 OF GENERAL REGULATIONS**

*The following item was dealt with following a Motion moved by the Mayor, Councillor Ebbeck to have the matter dealt with at the Meeting which was CARRIED and the Mayor ruled Urgency*

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

*Against Urgency:        Councillor Bennett*



EMC230 **Draft Ku-ring-gai Town Centres Development Contribution Plan, Draft Amendments to the Adopted 2004 to 2009 Section 94 Contributions Plan - Residential Development & the Draft Planning Agreement Policy**

File: S04495

**Notice of Rescission from Councillors T Hall, L Bennett & E Malicki dated 15 July 2008.**

"We, the undersigned, move that the Council's decision of 15 July 2008 in respect of Part A of the Resolution on the Draft Ku-ring-gai Town Centres Development Contribution Plan, Draft Amendments to the Adopted 2004 to 2009 Section 94 Contributions Plan - Residential Development & the Draft Planning Agreement Policy be and is hereby rescinded."

**Motion:**

(Moved: Councillors Malicki/Shelley)

That the Notice of Rescission be adopted.

*For the Motion: Councillors Bennett and Malicki*

*Against the Motion: The Mayor, Councillor N Ebbeck, Councillors Andrew, Cross, Lane, Ryan, Shelley & Anderson*

*No decision was taken in respect of the above matter as the Motion when put to the vote was LOST*

*The Meeting closed at 10.37pm*

The Minutes of the Extraordinary Meeting of Council held on 15 July 2008 (Pages 1 - 9) were confirmed as a full and accurate record of proceedings on 22 July 2008.

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General Manager

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Mayor / Chairperson