



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 4 SEPTEMBER 2007 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A
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NOTE: For Full Details, See Council's Website –
www.kmc.nsw.gov.au under the link to business papers

APOLOGIES

DECLARATIONS OF INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

NOTE: Persons who address the Council should be aware that their address
will be tape recorded.

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 28 August 2007

Minutes to be circulated separately

MINUTES FROM THE MAYOR

PETITIONS

REPORTS FROM COMMITTEES

Minutes of Ku-ring-gai Traffic Committee

File: S02110

Meeting held 23 August 2007

Minutes numbered KTC4 to KTC8

GENERAL BUSINESS

- i. *The Mayor to invite Councillors to nominate any item(s) on the Agenda that they wish to have a site inspection.*
- ii. *The Mayor to invite Councillors to nominate any item(s) on the Agenda that they wish to adopt in accordance with the officer's recommendation and without debate.*

GB.1 Election of Mayor for the 2007/2008 Mayoral Term

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File: S03662

To elect the Mayor for the period 2007/2008.

Recommendation:

That the Council elect the Mayor for the period 2007/2008 using the ordinary ballot method.

GB.2 Election of Deputy Mayor for the 2007/2008 Term

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File: S03662

To elect the Deputy Mayor for the period 2007/2008.

Recommendation:

That Council elect the Deputy Mayor for the period 2007/2008 using the same election method as was used for the election of the Mayor.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

**BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING
REGULATION**

QUESTIONS WITHOUT NOTICE

**CONFIDENTIAL BUSINESS TO BE DEALT WITH IN CLOSED MEETING - PRESS &
PUBLIC EXCLUDED**

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PETITION

PETITION AGAINST THE SALE OF FIREARMS IN ROSEVILLE SHOPS - (TWO HUNDRED & SEVENTEEN [217] SIGNATURES)

Petition presented by Councillor M Shelley:

"Petition to the Hon Frank Sartor, MP, Minister for Planning

We, the undersigned, object to the Ku-ring-gai Council issuing a development approval for the storage and sale of Firearms from Shop 19 Babbage Road, Roseville Chase. We, the undersigned, also object to the approval being granted by Council on the basis that no local community or business consultation whatsoever was required or undertaken on the basis that it is not an issue for public consultation. This, we believe, irrespective of what Council rules and by-laws may say, is an infringement of our rights as local and concerned citizens of this community."

RECOMMENDATION

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

ELECTION OF MAYOR FOR THE 2007/2008 MAYORAL TERM

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To elect the Mayor for the period 2007/2008.
BACKGROUND:	Section 290 of the Local Government Act provides that Council shall elect a Mayor and the Council is required to hold mayoral elections in September of each year of its four year term.
COMMENTS:	<p>It is customary in Ku-ring-gai Council for Mayoral elections to use the ordinary ballot method of voting.</p> <p>The General Manager is the returning officer.</p>
RECOMMENDATION:	That the Council elect the Mayor for the period 2007/2008 using the ordinary ballot method.

PURPOSE OF REPORT

To elect the Mayor for the period 2007/2008.

BACKGROUND

Section 290 of the Local Government Act provides that Council shall elect a Mayor and the Council is required to hold mayoral elections in September of each year of its four year term.

NOMINATION

Schedule 7 - Election of Mayor by Councillors [Local Government (General) Regulations 2005] states:

2. *(1) A councillor may be nominated without notice for election as mayor or deputy mayor.*
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*
- (3) The nomination is to be delivered or sent to the returning officer.*
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.*

Nomination forms and Acceptance forms have been distributed with the Business Papers and will also be available on the night.

If there is more than one nomination, an election is carried out.

METHOD OF ELECTION

The election could be carried out in one of three ways.

The first is an ordinary ballot. In this type of election, each councillor is required to cast one vote for the candidate of his or her choice. If there are more than two candidates, the candidate who polled the lowest number of votes is eliminated and a further ballot takes place. In the case of a tied vote (ie 5 all for the final two candidates), the General Manager will conduct a draw of lots to determine the outcome - the one chosen by lot is elected Mayor. at any stage through the vote, if 2 or more candidates are tied on the lowest number of votes, the one to be excluded is chosen by lot.

The second possible method of voting is a preferential system. In this system each councillor is required to cast a vote listing the candidates in order of preference 1, 2, 3, etc. If no candidate receives an absolute majority of first preferences, then preferences are distributed until one candidate receives a majority.

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The third possible method of voting is open voting. This voting method follows the same principles as the ordinary ballot, except that voting is conducted by Councillors raising their hands for the candidate of their choice.

COMMENTS

It is customary in Ku-ring-gai Council for Mayoral elections to use the ordinary ballot method of voting.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

It is also customary for the General Manager to be the returning officer in accordance with Schedule 7 of the Local Government (General) Regulations 2005.

Schedule 7 states:

Returning officer

1. *The general manager (or a person appointed by the general manager) is the returning officer.*

RECOMMENDATION

That the Council elect the Mayor for the period 2007/2008 using the ordinary ballot method.

Geoff O'Rourke
Senior Governance Officer

John McKee
General Manager

ELECTION OF DEPUTY MAYOR FOR THE 2007/2008 TERM

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To elect the Deputy Mayor for the period 2007/2008.

BACKGROUND:

Section 231 of the Local Government Act 1993 empowers the Council to elect a Deputy Mayor.

The Deputy Mayor may be elected for the same term as the Mayor or a shorter period.

Traditionally, Ku-ring-gai Council has elected a Deputy Mayor for the same period as the Mayor, ie annually.

COMMENTS:

It is customary that the same method of voting as is used for the election of the Mayor is used to elect the Deputy Mayor.

RECOMMENDATION:

That Council elect the Deputy Mayor for the period 2007/2008 using the same election method as was used for the election of the Mayor.

PURPOSE OF REPORT

To elect the Deputy Mayor for the period 2007/2008.

BACKGROUND

Schedule 7 - Election of Mayor by Councillors [Local Government (General) Regulations 2005] states:

2.
 - (1) *A councillor may be nominated without notice for election as mayor or deputy mayor.*
 - (2) *The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*
 - (3) *The nomination is to be delivered or sent to the returning officer.*
 - (4) *The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.*

Nomination forms and Acceptance forms have been distributed with the Business Papers and will also be available on the night.

If there is more than one nomination, an election is carried out.

METHOD OF ELECTION

The election could be carried out in one of three ways.

The first is an ordinary ballot. In this type of election, each councillor is required to cast one vote for the candidate of his or her choice in the normal ballot method, ie secret. If there are more than two candidates, the candidate who polled the lowest number of votes is eliminated and a further ballot takes place. In the case of a tied vote, the General Manager will conduct a draw of lots to determine the outcome - the one chosen by lot is elected Deputy Mayor. At any stage through the vote, if 2 or more candidates are tied on the lowest number of votes, the one to be excluded is chosen by lot.

The second possible method of voting is a preferential system. In this system each councillor is required to cast a vote listing the candidates in order of preference 1, 2, 3, etc. If no candidate receives an absolute majority of first preferences, then preferences are distributed until one candidate receives a majority.

The third possible method of voting is open voting. This voting method follows the same principles as the ordinary ballot, except that voting is conducted by Councillors raising their hands for the candidate of their choice.

COMMENTS

It is customary that the same method of voting as is used for the election of the Mayor is used to elect the Deputy Mayor.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

It is also customary for the General Manager to be the returning officer in accordance with Schedule 7 of the Local Government (General) Regulations 2005.

Schedule 7 states:

Returning officer

1. *The general manager (or a person appointed by the general manager) is the returning officer.*

RECOMMENDATION

That the Council elect the Deputy Mayor for the period 2007/2008 using the same election method as was used for the election of the Mayor.

Geoff O'Rourke
Senior Governance Officer

John McKee
General Manager

ST IVES SHOWGROUND SERVICE STATION (452 MONA VALE ROAD, ST IVES) - PROPOSED AMENDMENT TO KU-RING-GAI PLANNING SCHEME ORDINANCE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To consider an appropriate zoning amendment to enable the continued use of the service station site adjoining the St Ives Showground at 452 Mona Vale Road, St Ives as a permissible use.

BACKGROUND:

A service station has operated from the St Ives Showground lands since the 1930s. It has operated on its existing site since 1965, the lands of which are zoned part Recreation Existing 6(a) and part Unzoned. The use does not comply with the existing zoning and site operations have relied on existing use rights. The appropriateness of continuing to rely upon existing use provisions is questioned and an appropriate amendment to the Ku-ring-gai Planning Scheme Ordinance (KPSO) to accommodate the use is considered warranted.

COMMENTS:

It is desirable to ensure the continued financial support that the service station provides, via rental from its lease, to St Ives Showground operations. The amendment of the KPSO to remove any potential anomaly between the current use and the 6(a) zoning and to ensure certainty for its continued operation can be supported.

RECOMMENDATION:

That Council resolve to prepare a draft Local Environmental Plan (LEP) to amend the Ku-ring-gai Planning Scheme Ordinance (KPSO) to permit the continuing use of the service station use and ancillary commercial / retail purposes.

PURPOSE OF REPORT

To consider an appropriate zoning amendment to enable the continued use of the service station site adjoining the St Ives Showground at 452 Mona Vale Road, St Ives as a permissible use.

BACKGROUND

The service station is adjacent to the St Ives Showground and is known as 452 Mona Vale Road, St Ives. These lands form the Crown Reserve of which Council acts as Reserve Trust Manager.

The service station has operated at this location since 1965, and is zoned part Recreation Existing 6(a) and part unzoned. The current use is inconsistent with the 6(a) zoning, and to date, the operations at the site have relied on existing use rights. The service station has operated at its current location since that time. The use has a long association with the site dating back at least to the late 1930s when it was sited slightly further to the south.

Council leases the site to Caltex Pty Ltd (Caltex). The rental return is used by Council to offset the cost of developing and maintaining the St Ives Showground. In October 2006, Caltex advised that they would not be exercising the further five (5) year option period. As such Council officers have been liaising with representatives from Caltex and the Department of Lands (Lands) to ensure the valuable revenue obtained through the occupancy of the site is not forfeited.

On 12 June 2007, Council was advised via Memo of the issues impacting the service station site (Attachment A – Confidential Memo – includes legal advice).

COMMENTS

St Ives Showground provides an array of local, metropolitan, regional and national activities with in excess of 450,000 visitors each year and is seen as a valuable strategic asset which assists the broader Crown Reserve system.

The service station activity is important in providing the revenue stream to fund the services and facilities of the St Ives Showground. To ensure the ongoing retention of the service station use, it is appropriate that it not have to continue to rely on existing use provisions. An appropriate amendment to the KPSO to accommodate the services station as a permissible use within the zoning is desirable.

Council has been in discussion on the matter with both the Department of Lands and Department of Planning, each of whom have indicated support for the zoning amendment at Ministerial level.

Verbal feedback was received late last week from the Minister's office via Department of Planning staff that the Department wished to receive a Section 54 response as soon as possible to this matter.

CONSULTATION

There has been ongoing consultation between Council and Lands to ensure the continued use of the site as a service station. There has been discussion with the Department of Lands and Department of Planning on the matter and both have indicated support for the zoning amendment as previously mentioned.

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There has been no public consultation in respect of this matter as yet. However, the rezoning process will require public consultation as a legislative requirement.

Councillors have received memorandums on this subject on 3 October 2006 and 12 June 2007 (see **Attachment B**).

Should Council resolve to prepare a draft LEP it will be necessary to formally consult with the Department of Planning for consent to prepare and exhibit the draft Plan.

FINANCIAL CONSIDERATIONS

The financial considerations specific to the matter to date have been the use of staff resources. The preparation of any proposed draft Local Environmental Plan and its processing would involve the costs of: Staff resources and advertising (at the time of Plan exhibition).

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation in line with statutory obligations would be undertaken in the preparation and exhibition of an amendment to the KPSO.

SUMMARY

A service station has operated at St Ives Showground since the late 1930s, and in its current location since 1965.

The rental return to Council from leasing the site provides financial support to the services and activities at the Showground. St Ives Showground is viewed as a valuable strategic asset that supports the broader Crown Reserve system, and any loss of revenue due to the vacancy at the service station will impact on the current levels of financial support to the services and facilities contained within the Showground.

The zoning amendment proposed to the KPSO will address the current anomaly with the service station use and its zoning. The amendment will allow the continued functioning of the service station on the site as a permissible use.

RECOMMENDATION

- A. That Council advise the Department of Planning of its decision to prepare a draft Local Environmental Plan in accordance with Section 54 of the Environmental Planning and Assessment Act 1979.
- B. That the draft Local Environmental Plan provide for the amendment of the Ku-ring-gai Planning Scheme Ordinance to permit service station use and ancillary commercial / retail purposes for lands known as 452 Mona Vale Road, St Ives at St

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Ives Showground (being Lot 4 DP628197, part of land in Ms 15786 Sy and Part of Portion 18 in the Parish of Broken Bay).

- C. That upon receipt of formal Department of Planning support the draft Local Environmental Plan be prepared and consultation with statutory authorities be undertaken in accordance with the provisions of Section 62 of the Environmental Planning and Assessment Act 1979.
- D. That following preparation of the draft Local Environmental Plan it be placed on public exhibition in accordance with statutory requirements.
- E. That a report be brought back to Council following public exhibition for consideration and finalising of the draft Local Environmental Plan.

Deborah Silva
Commercial Services Co-ordinator

Rod Starr
Senior Urban Planner

Antony Fabbro
Manager Urban Planning

Steven Head
Director Strategy

Attachments: **Attachment A - Confidential Memorandum dated 12 June 2007**
 Attachment B - Memorandum dated 3 October 2006 - 787647

3 October 2006

MEMORANDUM

TO: MAYOR
ALL COUNCILLORS

COPY TO: ALL DIRECTORS

FROM: COMMERCIAL SERVICES COORDINATOR

SUBJECT: **452 MONA VALE ROAD - LEASE TO CALTEX AUSTRALIA
PETROLEUM PTY LTD**

Caltex lease a site area of approximately 1,593 sqm adjacent to St Ives Showground as an Ampol petrol station. Council has received advise from Caltex Australia Petroleum Pty Ltd, that they will not be exercising the five (5) year option in their current lease. As such the lease will terminate on 7 November 2006.

The lease requires that the lessee removes all fittings and fixtures, and remediate the land. The lessee has advised that they will require approximately 6-12 months to complete these works.

As the lease does not contain a holdover clause, Council and the lessee have agreed to rely on the provisions of S127 Conveyancing Act 1919, and remain in occupancy on a monthly basis under the current lease arrangements.

As the leased area forms part of St Ives Showground, of which Council acts as Reserve Trust Managers, any new lease proposal will be developed and progressed in conjunction with the Crown (Department of Lands).

A report will be submitted to Council in due course.

Deborah Silva
Commercial Services Coordinator