

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 1 DECEMBER 2009

Present: The Mayor, Councillor I Cross (Chairperson) (Wahroonga Ward)
Councillors S Holland & E Malicki (Comenarra Ward)
Councillor C Szatow (Gordon Ward)
Councillors J Anderson & R Duncombe (Roseville Ward)
Councillors T Hall & C Hardwick (St Ives Ward)
Councillor D McDonald (Wahroonga Ward)

Staff Present: General Manager (John McKee)
Director Corporate (John Clark)
Director Development & Regulation (Michael Miocic)
Team Leader Development Assessment – South (Shaun Garland)
Director Operations (Greg Piconi)
Director Strategy & Environment (Andrew Watson)
Manager Corporate Planning & Sustainability (Peter Davies)
Director Community (Janice Bevan)
Senior Governance Officer (Geoff O'Rourke)
Director Development & Regulation's PA (Judy Murphy)

The Meeting commenced at 7.00pm

The Mayor offered the Prayer

280 APOLOGIES

File: S02194

Councillor Elise Keays tendered an apology for non-attendance [family commitment] and requested leave of absence.

Resolved:

(Moved: Councillors Szatow/McDonald)

That the apology by Councillor Elise Keays 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.

ADDRESS THE COUNCIL

The following members of the public addressed Council on items not on the Agenda:

I Glendinning

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 held 24 November 2009, Minutes numbered 258 to 279

Memorandums: **Refer GB.3 - 5 Toongarah Road, Roseville** - Memorandum by Director Development & Regulation dated 30 November 2009 advising that the applicant had provided additional information.

Refer GB.4 - St Ives Showground & Precinct Draft Options Paper - Memorandum by Manager Corporate Planning & Sustainability dated 1 December 2009 with regard to a coloured map omitted from the Report - see page 42 of Business Paper No 15/09.

Refer GB.6 - Addition of Lands into Lane Cove National Park - Memorandum by Manager Strategic Assets & Property Management dated 1 December 2009 with attached A3 Aerial Maps of Council land proposed transfer & Crown Land proposed for revocation of care, control & management.

CONFIRMATION OF MINUTES

281 Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 24 November 2009
Minutes numbered 258 to 279

Resolved:

(Moved: Councillors Szatow/McDonald)

That Minutes numbered 258 to 279 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

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

Against the Resolution: *Councillor Hall*

GENERAL BUSINESS

282 **5 Toongarah Road, Roseville - Construction of a Double Carport**

File: DA0649/09

Ward: Roseville

Applicant: Urbanesque Planning Pty Ltd

Owners: Mrs A J and Mrs D J Perryman

To determine Development Application No 0649/09 for the construction of a new double carport.

Resolved:

(Moved: Councillors Anderson/Duncombe)

- A. That consideration of construction of a double carport at 5 Toongarah Road, Roseville be deferred pending a site inspection.
- B. That the applicant be requested to have the location of the proposed development pegged out on site for the inspection.

For the Resolution: *The Mayor, Councillor I Cross, Councillors Szatow, Anderson, Duncombe, Hall, Hardwick & McDonald*

Against the Resolution: *Councillors Holland & Malicki*

283 **National Trust of Australia - Corporate Membership**

File: S02792

To advise Council of a request from the National Trust of Australia to renew Council's Gold Corporate Membership of the Trust for 2009-2010.

Resolved:

(Moved: Councillors Hall/Hardwick)

That Council renew Gold Corporate Membership of the National Trust of Australia for 2009-2010 for \$2,500.

CARRIED UNANIMOUSLY

284 **Tulkiyan House Museum - Budget Estimates for Auxiliary Requirements**

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File: S07525

To provide Councillors with budget estimates for auxiliary requirements for the operation of Tulkiyan.

Resolved:

(Moved: Councillors Hall/McDonald)

That the report be received and noted and that this item be placed on the agenda for further discussion at the 2010-2011 Budget Planning meeting with Councillors and senior staff.

CARRIED UNANIMOUSLY

285 **Amendment of a Conservation Agreement for the Ku-ring-gai Flying-Fox Reserve**

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File: S02642

To seek Council's approval to list an existing Conservation Agreement on the title of Lot 34, DP 1079802 recently added to the Ku-ring-gai Flying-Fox Reserve.

Resolved:

(Moved: Councillors Hall/Anderson)

- A. That Council approves the inclusion of the existing Conservation Agreement for the Ku-ring-gai Flying-Fox Reserve on the title of the parcel of land (Lot 34, DP 1079802).
- B. That Council notify the Department of Environment, Climate Change and Water accordingly.

CARRIED UNANIMOUSLY

286

St Ives Showground & Precinct Draft Options Paper

File: S02673

The following members of the public addressed Council:

B Ashcroft
E Bell
A Rozali

To present to Council the draft options paper for the St Ives Showground and precinct for public comment and to call for expressions of interest from the private sector as to their interest in the draft options.

Resolved:

(Moved: Councillors Malicki/Duncombe

- A. That Council place the draft options for the St Ives Showground and Precinct on public exhibition from December 2009 to mid February 2010, as outlined in the report.
- B. That Council seek comment from the NSW Land and Property Management Authority and Department of Environment, Climate Change and Water on the draft options.
- C. That Council approve the calling of expressions of interest for the major element of the precinct that would benefit from public/private partnership or partnerships with other levels of government.
- D. For Council to seek recognition of the State Heritage Register or local listing in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance (KPSO) for those buildings or built elements and their curtilage assessed as having potential state or local cultural significance within the St Ives Showground and the Ku-ring-gai Wildflower Garden.
- E. That the draft options plan be incorporated within the development of the Draft Ku-ring-gai Contributions Plan 2009.
- F. That the General Manager or his delegates commence discussions with the NSW Land and Property Management Authority and the NSW Department of Environment and Conservation and Water, seeking their formal support for Council to retain access rights over the adjoining Green Waste Tip site.

For the Resolution:

*The Mayor, Councillor I Cross, Councillors
Holland, Malicki, Szatow, Duncombe & McDonald*

Against the Resolution:

Councillors Anderson, Hall & Hardwick

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

(Moved: Councillors Hall/Hardwick)

That the report be referred to the Open Space Reference Committee for comment prior to being placed on exhibition.

287

Addition of Lands into Lane Cove National Park

File: S02464

For Council to consider an approach from the NSW Department of Environment, Climate Change and Water regarding the transfer of Council land and to revoke care, control and management of four (4) parcels of Crown Land R89885, for the purpose of amalgamation into Lane Cove National Park.

Resolved:

(Moved: Councillors Malicki/Holland)

- A. That Council provide an “*in principal agreement*” to the transfer of Council land into the Lane Cove National Park as proposed by the Department of Environment, Climate Change and Water subject to resolving the following:
- i. Boundary issues, including boundary revision to excise the recreational areas and tennis courts from Lot 21 DP752031 to ensure they remain with Council;*
 - ii. That consideration be given to Council’s retaining care, control and management of the Canoon Road netball courts and Field of Mars Avenue, South Turramurra;*
 - iii. Road closure requirements are met;*
 - iv. Land title information and any potential impediments to transfer of the lands are dealt with by the NSW Department of Environment Climate Change and Water;*
 - v. The NSW Department of Environment Climate Change and Water provide an outline on how they will successfully manage the environmental condition of the site and the interface areas to Council land;*
 - vi. Creation of positive covenants and / or conservation agreement on title to ensure the land transferred remains a National Park;*
 - vii. All costs associated with the proposal are borne by the Department of Environment, Climate Change and Water including but not limited to*

surveys, land title investigations, subdivisions, legals, and land registrations;

viii. The Department of Environment, Climate Change and Water consult with other impacted stakeholders; and

ix. Council retain access rights over the Crown Lands.

- B. That the General Manager advise the Department of Environment, Climate Change and Water of Council's chosen position and commence discussions to progress the land transfers.
- C. That Council support the revocation of the care, control and management of Crown Reserve 89885 to enable the inclusion of the four (4) parcels of land into the adjacent Lane Cove National Park.
- D. That Council provide written advice to the Department of Lands and the Department of Environment and Conservation and Water, indicating their support and advising that there is no objection to the addition of Crown Reserve 89885 into Lane Cove National Park.
- E. That a further report be brought back to Council advising of the outcomes of discussions with Department of Environment Climate Change and Water to seek formal approval to transfer Council owned lands to be incorporated into Lane Cove National Park.
- F. That Council requests from National Parks and Wildlife Service further information on the proposed Plan of Management for Lane Cove National Park.

CARRIED UNANIMOUSLY

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

(Moved: Councillors Hall/Hardwick)

- A. *That Council provide an "in principal agreement" to the transfer of Council land into the Lane Cove National Park as proposed by the Department of Environment, Climate Change and Water subject to resolving the following:*
 - i. Boundary issues, including boundary revision to excise the recreational areas and tennis courts from Lot 21 DP752031 to ensure they remain with Council;*
 - ii. Access to the Guide hall and inclusion of a narrow strip of land along the eastern edge of the proposal (DP 65046);*
 - iii. Road closure requirements are met;*

- iv. *Land title information and any potential impediments to transfer of the lands are dealt with by the NSW Department of Environment Climate Change and Water;*
 - v. *The NSW Department of Environment Climate Change and Water provide an outline on how they will successfully manage the environmental condition of the site and the interface areas to Council land;*
 - vi. *Creation of positive covenants and / or conservation agreement on title to ensure the land transferred remains a National Park;*
 - vii. *All costs associated with the proposal are borne by the Department of Environment, Climate Change and Water including but not limited to surveys, land title investigations, subdivisions, legals, and land registrations;*
 - viii. *The Department of Environment, Climate Change and Water consult with other impacted stakeholders; and*
 - ix. *Council retain access rights over the Crown Lands.*
- B. *That the General Manager advise the Department of Environment, Climate Change and Water of Council's chosen position and commence discussions to progress the land transfers.*
- C. *That Council support the revocation of the care, control and management of Crown Reserve 89885 to enable the inclusion of the four (4) parcels of land into the adjacent Lane Cove National Park.*
- D. *That Council provide written advice to the Department of Lands and the Department of Environment and Conservation and Water, indicating their support and advising that there is no objection to the addition of Crown Reserve 89885 into Lane Cove National Park.*
- E. *That a further report be brought back to Council advising of the outcomes of discussions with Department of Environment Climate Change and Water to seek formal approval to transfer Council owned lands to be incorporated into Lane Cove National Park.*

QUESTIONS WITHOUT NOTICE

288

Re-Zoning of UTS Ku-ring-gai - Council's Formal Submission

File: S03621

Question Without Notice from Councillor J Anderson

UTS Ku-ring-gai is seeking to amend the concept plan approved by the NSW Minister for Planning in June 2008 for re-zoning of the site. Comments on the new proposal are to be provided to UTS by close of business Monday, 7 December 2009.

Will Council be in a position to make a formal submission?

Answer by the Director Strategy & Environment

By formal submission endorsed by Council by 7 December, the answer is NO. Do we intend making a submission, the answer there is YES. It is my understanding there was a briefing yesterday evening which Mr Fabbro attended and a number of Councillors. I haven't had a full briefing, a de-brief on that yet, but it is my understanding for example that the Department of Education wishes to retain and use the gymnasium and some other facilities on the site so we are talking about some modifications to the concept of the Minister, the former Minister approved several years ago. We don't, for example, yet know the implications on our Section 94 Contributions with some of these things being effectively offset against contributions that we had otherwise sought. As we get more information, we will be making a submission along those lines.

Question by the Mayor

Does that mean that you have to seek an extension?

Answer by the Director Strategy & Environment

We could seek an extension. At the moment, we don't know what all the issues are but I would certainly be more than happy to send around a draft submission for the Councillors to review and input to if we have to make a submission by the 7th.

289

Rented Properties owned by Council & available for Lease or Occupation without Payment

File: S03671

Question Without Notice from Councillor T Hall

I again ask the General Manager for a complete list of Council-owned rented properties including details of rent, etc, identification of each asset that were not included in Director Bevan's memo of 18 November 2009 please?

Answer by the Director Community

The staff are working on those properties now and we should be able to have that finalised by the next day or two.

290 **Codes of Conduct Complaints**

File: S06948

Question Without Notice from Councillor T Hall

Will Councillor Malicki confirm she had no knowledge of any of the staff related complaints that I received in mid July 2009?

Answer by the Mayor

She ought not to have known them. I thought they were confidential.

Statement by Councillor Hall

I ask the Question to Councillor Malicki, please?

Question by the Mayor to Councillor Malicki

Councillor Malicki - Did you?

Answer by Councillor Malicki

I don't have to answer, do I? I was aware only after Councillor Hall had told everybody, Mr Mayor.

291 **Minister's Press Release - Council's Town Centres LEP requires greater FSR**

File: S04554

Question Without Notice from Councillor E Malicki

Are we taking any steps to challenge the Minister's Press Release and her comment that our Town Centres LEP requires greater FSR to attain the 10,000 dwelling target for Metro Strategy?

Answer by the Mayor

The General Manager and I are working on it.

292 **1 Bareena Avenue, Wahroonga - Allegation by Speaker in General Address**

File: REV0023/09

Question Without Notice from Councillor C Szatow

Please respond to the allegation by Ian Glendinning that he had an agreement with staff regarding the approval of a DA for 1 Bareena Avenue, Wahroonga?

Mr Glendinning addressed Council on this issue on 1 December 2009.

Answer by the General Manager

The Director Development & Regulation will formally respond to Councillors regarding the assertions made by the speaker in General Address.

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

The Director Development & Regulation will advise the date and time of when an Inspections Committee will be held at:

5 Toongarah Road, Roseville

The Meeting closed at 8.05pm

The Minutes of the Ordinary Meeting of Council held on 1 December 2009 (Pages 1 - 11) were confirmed as a full and accurate record of proceedings on 8 December 2009.

General Manager

Mayor / Chairperson