

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 11 NOVEMBER 2008

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

Staff Present: General Manager (John McKee)
Director Corporate (John Clark)
Director Development & Regulation (Michael Miocic)
Director Operations (Greg Piconi)
Director Strategy (Andrew Watson)
Manager Corporate Planning & Sustainability (Peter Davies)
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

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.

Councillor Jennifer Anderson declared a Conflict of Interest to Item GB.2 - Bradfield Park Preschool & Child Care Centre Inc - Surrender of Lease (she is President of the Preschool).

Councillor Tony Hall declared a Pecuniary Interest to Item NM.3 - Code of Conduct Matter - Prima Facie Code of Conduct Breach (e-Mail to External Parties) Code of Conduct Matter - Prima Facie Code of Conduct Breach (e-Mail to Staff) (Personal)

372

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499

Resolved:

[Moved: Councillors Cross/Keays]

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 General Manager's Performance Review

For the Resolution: *The Mayor, Councillor E Malicki, Councillors Holland, Keays, Szatow, Anderson, Duncombe, Cross & Ebbeck*

Against the Resolution: *Councillors Hall & Hardwick*

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: **Refer MM.1 - Planning Panel's Draft LEP for Ku-ring-gai Town Centres**

Refer MM.2 - Meetings with Minister for Planning

Refer GB.21 - Public Domain Manual - Update of Progress

Memorandum by Director Strategy dated 11 November 2008 advising of supplementary information on possible paving types as referred to in Attachment 6 to the report.

Confidential Item:

Mayoral Minute - General Manager's Performance Review

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)(a) of the Act, and should be dealt with in a part of the meeting closed to the public.

Section 10A(2)(a) of the Act permits the meeting to be closed to the public for business relating to personnel matters concerning particular individuals (other than Councillors).

Confidential Mayoral Minute by the Mayor, Councillor Elaine Malicki dated 5 November 2008.

Councillors Information:

Streetscape Killeaton Street, St Ives - Memorandum by the Director Operations dated 3 November 2008 in response to a Question Without Notice raised by Councillor Tony Hall at Ordinary Meeting of Council held 14 October 2008.

Planning for New Dwellings in Ku-ring-gai - Memorandum by Director Strategy dated 11 November 2008 in response to a Question

Without Notice raised by Councillor Tony Hall at Ordinary Meeting of Council held 21 October 2008.

CONFIRMATION OF MINUTES

373 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 21 October 2008
Minutes numbered 362 to 371

Resolved:

(Moved: Councillors Cross/Keays)

That Minutes numbered 362 to 371 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

GENERAL BUSINESS

*Standing Orders were suspended in order that
the following item could be dealt with
after a Motion moved by Councillors Keays & Cross
was CARRIED UNANIMOUSLY*

374 **Audited General Purpose & Special Purpose Financial Reports for year ended 30 June 2008 & Auditor's Report**

File: S05983

To present to Council the Annual Financial Statements and audit reports from Council's external auditor, Spencer Steer Chartered Accountants for the year ended 30 June 2008 and to provide a summary of Council's financial performance and financial position at 30 June 2008.

Resolved:

(Moved: Councillors Keays/Szatow)

- A. That Council receives the audited Financial Statements and the report of Council's external auditor, Spencer Steer Chartered Accountants.

- B. That the 2007/2008 General Revenue funded carry-over works requests as tabled in this report totalling \$332,400 be approved and the budget for 2008/09 be adjusted accordingly.

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR

375 **Planning Panel's Draft LEP for Ku-ring-gai Town Centres**

File: S06523

Several Councillors have approached me about the need to provide assistance to our residents in responding to the issues of concern to them in the Draft LEP for Ku-ring-gai Town Centres which was adopted by the Ku-ring-gai Planning Panel for exhibition on 5 November.

It was proposed by those Councillors that Council send a newsletter to every household by addressed mail as soon as possible, and that it be compiled with input from Councillors and assistance from Council staff. It is important to get this newsletter out as soon as possible as the DLEP is only on exhibition until December 19, this year.

The newsletter is to make it clear that the DLEP is NOT that of the Councillors, but was prepared by the Ku-ring-gai Planning Panel appointed by Mr Sartor and the State Government.

The newsletter aims to give maximum assistance to our residents in outlining the most effective methods of presenting their arguments if there are merit issues of concern to them.

Residents are to be given clear details of where to source information and to get assistance with their responses and the addresses to which responses should be sent.

The role of Ku-ring-gai Council staff should also be clarified, as it is disappointing to see the criticism levelled at our staff for plans which are not their proposals but those of the Ku-ring-gai Planning Panel. Their dual role is extremely difficult yet they have no choice but to serve the Planning Panel as well as Council.

Resolved:

That a newsletter be sent to every household by addressed mail as soon as possible, and that it be compiled with input from Councillors and assistance from Council staff. Content is to be as detailed in the Mayoral Minute.

For the Resolution: *The Mayor, Councillor E Malicki, Councillors
Holland, Keays, Szatow, Anderson, Hall, Hardwick
& Cross*

Against the Resolution: *Councillors Duncombe & Ebbeck*

The above Resolution was subject to two Amendments which were LOST.

The First Lost Amendment was:

(Moved: Councillors Hall/Ebbeck)

That the Mayor arrange advertisements to be placed in the local newspapers within 2 weeks to encourage residents to lodge submissions.

The Second Lost Amendment was:

(Moved: Councillors Ebbeck/Cross)

That this matter be deferred to allow the General Manager to make a decision on a letter to our residents informing them of their opportunities to submit to the planning panel and I seek, a 2 page letter – with an explanation and an overview.

376 **Meetings with Minister for Planning**

File: S04554

I am pleased to report to our residents that over the past two weeks I have participated in two meetings with Minister Keneally, Minister for Planning.

The first was held on 29 October in the Minister's office in Parliament House, and I was accompanied by our General Manager, Mr McKee.

We had a 35 minute meeting with Minister Keneally and her assistant Mr Watkins, and we were able to raise a range of issues with her.

We discussed numbers for Metro Strategy and how these have been exceeded in future planning and should be reduced, the role of the Panel, costs of the Panel and staff issues around serving two masters, confidentiality issues with the Panel, reclassification, SEPP 53 exemption, UCAs, Town Centre planning including heights, numbers and loss of character.

The Minister was very professional and listened sympathetically. She was not prepared to give any assurances at that time however undertook to follow up on the issues raised, especially the numbers. We demonstrated that current rezonings plus Town Centre and interface sites give a net of almost double the 10,000 dwellings net required by 2031.

We also showed that within the timeframe for the Metropolitan Strategy, Council has already approved just short of 5,000 dwellings gross already, half of the 10,000 total required for Metro.

We had time to work through all the issues briefly and the Minister raised a number of questions which we answered.

I consider we were given a very fair hearing. Each point we raised was accompanied by a specific written request for follow up.

Our State MP for Davidson Mr Jonathan O'Dea had also visited the Minister with a group of residents and he asked the Minister to visit Ku-ring-gai to see for herself the damage being done to our area by overdevelopment.

Minister Keneally agreed and this inspection was held on 4 November. Mr O'Dea kindly asked me to be part of the group as Mayor of Ku-ring-gai. He also asked a community representative to attend and assist with commentary from a community perspective.

The tour was meticulously planned by Mr O'Dea, community representatives from FOKE, Friends of Lindfield and Friends of Turramurra and myself. Our tour covered every Town Centre and many individual streets, though in just over an hour we did not have time to cover every problem area.

We showed the Minister the 6 affected Town Centres and the Pymble Industrial Centre, with commentary on the proposals put forward by the Ku-ring-gai Planning Panel. We showed the Minister concept drawings from the Panel's proposals, and discussed heights, areas to be covered by medium density housing, conservation areas and heritage or potential heritage properties and areas within Town Centre boundaries.

We also covered many of the existing LEP 194 developments both completed and under construction to show the Minister the extent of works already occurring in Ku-ring-gai and their impacts. We showed her that Ku-ring-gai was already contributing strongly to urban consolidation, at great cost to the character of our area.

The issues we raised ranged from the costs of the Panel, the numbers of dwellings required for the Metro Strategy and how these had been exceeded, the heights of some of the proposed zonings in town centres where the categorisation was Village or Small Village. The Minister asked a range of questions and understood the issues fully.

I took the opportunity to present the Minister with a copy of "Ku-ring-gai Living with Trees" and also a copy of "Under the Canopy".

I would describe the visit as successful - I do not think we could have covered more in the time allowed, and the Minister was very sympathetic and receptive.

Many thanks to Mr O'Dea for giving me this opportunity to put the case for our residents and we hope for a positive outcome over time. I thanked the Minister on behalf of our residents for giving us so much of her time.

Resolved:

- A. That the Mayoral Minute be received and noted.

- B. That the Mayor send a follow-up letter to the Minister thanking her for her interest in Ku-ring-gai and reiterating our requests.

CARRIED UNANIMOUSLY

377

The Portrait of Her Majesty Queen Elizabeth II

File: S06915

The following member of the public addressed Council:

A Smith

There has been a lot said in the Press and by some of our Councillors about the fact that the portrait of Her Majesty Queen Elizabeth II has been moved from a dominant location in our Council Chambers to the Councillors' Board Room.

I freely admit that I moved the portrait, and I did it without consulting the Councillors or the residents. I regret that very much and apologise sincerely to the councillors and the residents for having done so without consultation – it was most out of character. One councillor described my failure to consult councillors as hypocritical and I accept that criticism.

In my defence I must say that it was quite an innocent act and not done with any malice or any intention to offend anyone, certainly not our councillors and those we represent.

I subsequently consulted councillors on a night when we were discussing my pending meeting with Minister Keneally and there was no majority view expressed. An email follow up resulted in 5 responses and no majority view, so I took no further action.

I have received a moderate amount of correspondence on the issue, much of it from outside of our Local Government Area and even from overseas. Of the correspondence received from Ku-ring-gai the writers have been a mixture of those supporting the move and those who wish to have the Queen's portrait returned to the Chamber.

Given the views expressed by councillors and several correspondents, I wish to address the issue by taking the opportunity to consult our residents about where the portrait of Her Majesty should be located. That way neither the councillors nor myself can be accused of making a decision without having the views of our residents on this matter.

Resolved:

(Moved: Councillors Hall/Cross)

- A. That there be consultation with our residents through the Residents' Feedback Register or some other mechanism on the preferred location of the portrait of Her Majesty Queen Elizabeth II. The Mayor and the General Manager to determine the most appropriate method of consultation.

- B. That a report on this consultation be brought back to Council.
- C. That in the meantime, the Queen's portrait be placed in its pre-existing position in the Chamber, subject to the outcome of the consultative process.

*For the Resolution: Councillors Holland, Keays, Szatow, Anderson,
Duncombe, Hall, Hardwick, Cross & Ebbeck*

Against the Resolution: The Mayor, Councillor E Malicki

PETITIONS

378

Objections to Three Developments at 8, 10 & 10A Beaconsfield Parade, 6, 6A & Part Of 8, 10 & 10A Beaconsfield Parade, Lindfield & Lot Consolidation & Subdivision of 6 Beaconsfield Parade, Lindfield - (Four Hundred & Forty-Nine [449] Signatures)

Files: DA0986/08, DA0987/08, DA0988/08

The following Petition was presented by Councillor Jennifer Anderson:

"We, the undersigned, object to the over-development of Beaconsfield Parade, Lindfield."

Resolved:

(Moved: Councillors Anderson/Duncombe)

- A. That the Petition be received and referred to the appropriate officer of Council for attention.
- B. That the Ku-ring-gai Planning Panel receive a copy of the Petition.

CARRIED UNANIMOUSLY

GENERAL BUSINESS (cont)

379

Ku-ring-gai Meals on Wheels Service - Surrender of Lease

File: P64496

To advise Council of a Surrender of Lease request from Ku-ring-gai Meals on Wheels Service for the lease of part of Gordon Golf Links premises, Gordon.

Resolved:

(Moved: Councillors Ebbeck/Hall)

- A. That Council accept the Surrender of Lease from Ku-ring-gai Meals on Wheels Service for the lease of part of Gordon Golf Links premises, Gordon.
- B. That the Mayor and General Manager be authorised to execute all relevant documents associated with the surrender of the current lease.
- C. That the Council Seal be affixed to the relevant documents.

CARRIED UNANIMOUSLY

380 **2007 to 2008 Annual Report**

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File: S02015

To present to Council the Statutory Annual Report for 2007/2008 in accordance with Section 428 of the Local Government Act 1993.

Resolved:

(Moved: Councillors Ebbeck/Cross)

- A. That the Annual Report for the period 1 July 2007 to 30 June 2008 be adopted.
- B. That a copy of the Annual Report be sent to the Minister for Local Government.

CARRIED UNANIMOUSLY

381 **Ku-ring-gai Council's Draft Asset Management Policy**

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File: S06232

For Council to consider the draft Asset Management Policy for public exhibition.

Resolved:

(Moved: Councillors Ebbeck/Hall)

- A. That Council consider the draft *Asset Management Policy* for public exhibition.
- B. That a further report be presented to Council following the public exhibition process.

CARRIED UNANIMOUSLY

382 **Draft Generic Plan of Management for Car Parks**

File: S06604

To place the draft Generic Plan of Management for Car Parks on public exhibition in accordance with the requirements of the Local Government Act 1993 as amended.

Resolved:

(Moved: Councillors Ebbeck/Keays)

- A. That the draft *Generic Plan of Management for Car Parks* be exhibited for a period of 28 days with a further 14 days for public comment in accordance with the requirements of the *Local Government Act 1993*.
- B. That during the exhibition period copies of the draft *Generic Plan of Management for Car Parks* be placed at the Council Chambers, Gordon, St Ives, Lindfield and Turramurra libraries and on Council's website.
- C. That Council gives notice of its intention to determine a purchase price of \$0.60 per page for the *Generic Plan of Management for Car Parks* via advertisements in the North Shore Times
- D. That during the public exhibition and comment period copies of the draft *Generic Plan of Management for Car Parks* be sent to relevant community interest groups, where known, welcoming their comment and advising the comment deadline.
- E. That a further report be presented to Council following the public consultation process and incorporating comments received during the public exhibition process.

CARRIED UNANIMOUSLY

383 **Draft Plan of Management Gordon Golf Course**

File: S06604

To place the draft Plan of Management Gordon Golf Course on public exhibition in accordance with the requirements of the Local Government Act 1993, as amended.

Resolved:

(Moved: Councillors Ebbeck/Keays)

- A. That the draft *Plan of Management Gordon Golf Course* be exhibited for a period of 28 days with a further 14 days for public comment, in accordance with the requirements of the *Local Government Act 1993*.
- B. That during the exhibition period copies of the draft *Plan of Management Gordon Golf Course* be placed at the Council Chambers, Gordon, St Ives, Lindfield and Turramurra libraries, Gordon golf course and on Council's website.
- C. That Council gives notice of its intention to determine a purchase price of \$0.60 per page for the *Plan of Management Gordon Golf Course* via advertisements in the North Shore Times.
- D. That during the public exhibition and comment period, copies of the draft *Plan of Management Gordon Golf Course* be sent to relevant community interest groups, where known, welcoming their comment and advising the comment deadline.
- E. That a further report be presented to Council following the public consultation process and incorporating comments received during the public exhibition process.

CARRIED UNANIMOUSLY

384

Draft Plan of Management - North Turramurra Recreation Area

File: S06604

To place the draft Plan of Management North Turramurra Recreation Area on public exhibition in accordance with the requirements of the Local Government Act 1993, as amended.

Resolved:

(Moved: Councillors Ebbeck/Cross)

- A. That the draft *Plan of Management North Turramurra Recreation Area* be exhibited for a period of 28 days with a further 14 days for public comment, in accordance with the requirements of the *Local Government Act 1993*.
- B. That during the public exhibition period copies of the draft plan of management be placed at Council Chambers, Gordon, St Ives, Lindfield and Turramurra libraries, North Turramurra golf course and on Council's website.
- C. That Council gives notice of its intention to determine a purchase price of \$0.60 per page for the *Plan of Management North Turramurra Recreation Area* via advertisements in the North Shore Times.
- D. That during the public exhibition and comment period, copies of the draft plan of management be sent to relevant community interest groups, where known, welcoming their comment and advising the comment deadline.

- E. That a further report be presented to Council following the public consultation process and incorporating comments received during the public exhibition process.

CARRIED UNANIMOUSLY

385

Licence Renewal - CARES Facility - Portion of Road Safety Centre - 451 Mona Vale Road, St Ives

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File: P52792

To seek the approval of Council for the grant of a 5 year Licence Agreement to Her Most Gracious Majesty Queen Elizabeth II (Minister for Police) for the C.A.R.E.S. (Community and Road Education Scheme) over a portion of the St Ives Road Safety Centre (SIRSC) at 451 Mona Vale Road, St Ives.

Resolved:

(Moved: Councillors Hall/Hardwick)

- A. That Council approves the grant of a 5 year Licence subject to the consent of the Department of Lands to Her Most Gracious Majesty Queen Elizabeth II (Minister for Police) for the C.A.R.E.S. (Community and Road Education Scheme) over a portion of the St Ives Road Safety Centre (SIRSC) at 451 Mona Vale Road, St Ives.
- B. That Council authorise the Mayor and General Manager to sign all documentation associated with the grant of a licence.
- C. That Council authorise the affixing of the Common Seal of Council to the Licence Agreement.

CARRIED UNANIMOUSLY

386

Draft Integrated Water Cycle Management Policy for Ku-ring-gai

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File: S03491

To recommend the draft Integrated Water Cycle Management Policy and Strategy be adopted.

Resolved:

(Moved: Councillors Ebbeck/Cross)

That Council adopt the draft *Integrated Water Cycle Management Policy and Strategy*.

CARRIED UNANIMOUSLY

387 Acquisition of 31 Bridge Street, Pymble

File: P36540

To advise Council on the outcome of the auction for the sale of 31 Bridge Street, Pymble.

Resolved:

(Moved: Councillors Ebbeck/Keays)

- A. That Council receives and notes the report.
- B. That the Mayor and General Manager be delegated authority to execute all documentation associated with the purchase of the property.
- C. That the property at 31 Bridge Street, Pymble be classified as Operational Land as defined in the Local Government Act 1993.

CARRIED UNANIMOUSLY

388 Merriwa & McIntyre Streets, Gordon - Relocation of Stormwater Pipeline & Easement

File: DA500/07

For Council to consider granting approval for the relocation of a Council stormwater pipeline and easement that traverse the proposed development sites.

Resolved:

(Moved: Councillors Ebbeck/Keays)

- A That Council grants approval for the extinguishment of the existing easement and creation of a new drainage easement 1.83 metres wide over the new pipeline.
- B That authority be given to affix the Common Seal of the Council to the instrument for release and creation of the new easements.
- C That the cost of altering the terms of the said easement for drainage including release and creation and council's legal costs and disbursements be borne by the applicant.
- D That Council approves the proposal to modify the stormwater pipelines in accordance with Mitchell Howes Civil and Structural Engineers Pty Ltd Drawings 2782 SW02 Rev D, SW03 Rev D, SW04 Rev B, SW05 Rev B and 3038 SW02 Rev E, subject to the following conditions:

- E The applicant carrying out all drainage works in accordance with the plans and specifications approved by Council at no cost to Council.
- F The redundant section of pipe is to be removed upon completion of the new pipeline.
- G The works are to be subject to inspections. The applicant or his engineer is to give Council at least 24 hours' notice (to allow inspection) at the following stages:
 - a. After completion of excavation and prior to pipelaying commencing.
 - b. After completion of pipelaying and prior to backfilling.
 - c. On completion of the pipeline installation.
- H Works-as-Executed drawings of the completed works are to be provided to Council's Development Engineer immediately upon completion of works. To be prepared by a registered surveyor.
- I That prior to construction of the buildings, fencing or a suitable alternative be installed around the easement perimeter, at no cost to Council, to prevent loading by heavy construction machinery on the area directly above the pipeline.
- J That after the buildings are completed, an inspection of the pipeline by closed circuit television (CCTV) or a suitable alternative be undertaken to verify the structural integrity of the pipeline by the applicant at no cost to Council, prior to issue of the Occupation Certificate.

CARRIED UNANIMOUSLY

389 **New Trade Waste Fees & Charges**

File: S02294

To advise Council of new Trade Waste Fees and Charges for a proposed new 660 litre waste container.

Resolved:

(Moved: Councillors Ebbeck/Keays)

- A. That Council sets a new charge for a 660 litre Trade Waste service at \$20.00 per service for standard waste, \$28.00 per service for heavy waste and \$8.50 per service for recycling paper products.
- B. That the new charges be placed on public exhibition in accordance with the Local Government Act for 28 days.

CARRIED UNANIMOUSLY

390 **Public Domain Manual - Update of Progress**

File: S05980

This report is to advise Council of the progress of the preparation of the Public Domain Technical Manual for the Town Centres.

Resolved:

(Moved: Councillors Ebbeck/Anderson)

- A. That Council receive and note the report.
- B. That staff provide a further in February 2009 detailing the proposed exhibition format, contents, locations and dates.

CARRIED UNANIMOUSLY

Standing Orders were suspended to deal with the Business Paper items where there are speakers first after a Motion moved by Councillors Cross & Ebbeck was CARRIED UNANIMOUSLY

391 **44 Braeside Street, Wahroonga**

File: MOD0232/08

The following members of the public addressed Council:

**N Bevan
W Pearce
P Gladigau
P Phillips**

To respond to questions raised at the Council site inspection of 18 October 2008 and to determine the Section 96 Modification Application No MOD0232/08 for deletion of Condition No 2 requiring a 12m setback from Wahroonga Avenue and approval of a 10m front setback.

Resolved:

(Moved: Councillors Anderson/Szatow)

PURSUANT TO SECTIONS 96 & 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Council, as the consent authority, refuse application number MOD0232/08 for deletion of Condition No 2 of the development consent to DA756/07, in relation to land at No. 44 Braeside Street, Wahroonga for the following reasons:

1. The proposed 10m setback is unsatisfactory with regard to streetscape impact, particularly with regard to the existing setback of adjoining properties, the setback pattern of the street block within which the proposal is situated and Council's minimum and average setback requirements specified in Part 4.1.3 of DCP 38 – Residential Design Manual.
2. The proposed 10m setback is inadequate with regard to the heritage significance of the nearby heritage item at No. 38 Braeside Avenue and does not provide an appropriate visual setting to the item. The proposal would result in visual dominance over the heritage item due to a combination of its scale and limited setback in comparison to the existing single storey house at No. 38 Braeside Avenue
3. The proposed 10m setback does not satisfy infill principles and impacts on the character, quality and consistency of the existing streetscape and National Trust UCA.
4. There are no apparent site constraints that prevent compliance with the front setback control.

*For the Resolution: The Mayor, Councillor E Malicki, Councillors
Holland, Keays, Szatow & Anderson*

*Against the Resolution: Councillors Duncombe, Hall, Hardwick, Cross &
Ebbeck*

*The voting being EQUAL,
the Mayor exercised her Casting Vote
in favour of the Motion*

*The above Resolution was CARRIED after the Original Motion and an
Amendment were LOST.*

The LOST Original Motion was:

(Moved: Councillors Cross/Ebbeck)

That the application be approved.

The LOST Amendment was:

(Moved: Councillors Ebbeck/Cross)

That a setback of 11 metres be permitted.

392

Draft Acquisition & Divestment of Land Policy

File: S05399

The following member of the public addressed Council:

D Vautin

For Council to adopt the draft Acquisition & Divestment of Land Policy for public exhibition.

Resolved:

(Moved: Councillors Hall/Holland)

That the matter be deferred for further discussion.

*For the Resolution: The Mayor, Councillor E Malicki, Councillors
Holland, Szatow, Anderson, Duncombe, Hall,
Hardwick, Cross & Ebbeck*

Against the Resolution: Councillor Keays

393

Street Lighting Price Increase Concerns

File: S02249

The following member of the public addressed Council:

G Dyer

To advise Council of a proposed 67% price increase in street lighting network charges over the next five year regulatory period and recommend Council support efforts by fellow member Councils of the Street Lighting Improvement Program to oppose such increases and seek improved service.

Resolved:

(Moved: Councillors Ebbeck/Cross)

- A. That the information contained in this report on public lighting be received and noted.
- B. That Council support the joint Council efforts to:
 - a. challenge appropriate funding support for lighting;
 - b. secure appropriate funding support for lighting;
 - c. secure improvements in pricing and service regulation; and

- d. ensure that the future governance model for street lighting in NSW is comprehensively reviewed.
- C. That Council issue a media release and write to all State Members of Parliament through the Local State Members of Parliament seeking their support in obtaining improved street lighting services from EnergyAustralia and opposing proposed excessive price increases.
- D. That Council investigate different options of lighting technology, including but not limited to LED lighting.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

**Councillor Hall declared a pecuniary interest
in respect of the following item -
NM.3 - Code of Conduct Matter -
Prima Facie Code of Conduct Breach
(e-Mail to External Parties)
Code of Conduct Matter – Prima Facie
Code of Conduct Breach (e-Mail to Staff)
and withdrew from the Chamber taking no part
in discussion and voting on the item**

394

Code of Conduct Matter - Prima Facie Code of Conduct Breach (e-Mail to External Parties) Code of Conduct Matter – Prima Facie Code of Conduct Breach (e-Mail to Staff)

File: S06344

The following member of the public addressed Council:

C Berlioz

Notice of Motion from Councillor R Duncombe dated 3 November 2008

On 29 July 2008, prior to my election as a councillor, Council created resolutions concerning Councillor Hall and Council's Code of Conduct. I am aware that there is ongoing litigation in the Supreme Court brought by Councillor Hall against Council and that these proceedings are likely to continue for some time until they are listed for hearing and determination by the Court.

Whilst I do not lightly revisit a matter such as this that has been considered and decided by an earlier Council, I think it should be recognised that the underlying purpose of disciplinary actions is to ensure that Council operates properly and efficiently for the benefit of the community. I am concerned that the previous Council's decisions are impacting negatively on the ability of Council to operate with

an appropriate level of trust and co-operation between councillors, which I think is essential.

I propose that this Council should seek to make a “fresh start”, not unnecessarily burdened by a legacy of issues dating from before the Council elections in September of this year. Those resolutions were based on Council’s previous code of Conduct which has since been replaced by the Model Code of Conduct currently in force. New matters arising under the Model Code will be subject to consideration under a new process that is external to Council and independent to a degree that was not possible under the previous disciplinary system. For this Council to be involved in litigation concerning a superseded Code of Conduct and events involving the previous Council does not seem to me to be an optimal use of Council resources, nor something that will improve the functioning of this Council.

As what I am proposing is motivated to achieve a fresh start to this Council and allowing us to operate efficiently and productively, this motion should not be taken as condoning, in any sense, inappropriate conduct by Councillors. We all need to recognise that the new Model Code must be rigorously observed by all members of this new Council

I move:

“That the resolution of Council dated 29 July 2008, Minute Number 268:

- 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.

is hereby rescinded.

and

that the resolution of Council dated 29 July 2008 Minute Number 269:

- 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.

is hereby rescinded.

Unanimous amongst all present that the meeting be closed to the public in order to discuss the litigation matter.

**Council resolved itself into Closed Meeting
with the Press and Public Excluded
after a Motion moved by Councillors Holland & Ebbeck
to discuss questions in relation to litigation
was CARRIED
and the Chairperson ruled accordingly.**

To Open Council

Resolved:

(Moved: Councillors Duncombe/Cross)

- A. That the above Notice of Motion as printed be adopted.
- B. That the resolutions in 1 and 2 in no way reflect on the integrity or actions of the General Manager, members of the Code of Conduct Committee or, the previous Council, in handling these matters.

CARRIED UNANIMOUSLY

GENERAL BUSINESS (cont)

Councillor Hall returned

395

Council Meeting Cycle for 2009

File: S02355

To consider the proposed Council Meeting Cycle for 2009 which takes account of school holidays, public holidays, the Local Government Association Conference, the National General Assembly of Local Government and the Christmas Recess.

Resolved:

(Moved: Councillors Ebbeck/Anderson)

- A. That Council amend its meeting cycle for 2009, as follows:

7 April 2009	Ordinary Meeting of Council
28 April 2009	Ordinary Meeting of Council

9 June 2009	Ordinary Meeting of Council
30 June 2009	Ordinary Meeting of Council

7 July 2009	Ordinary Meeting of Council
28 July 2009	Ordinary Meeting of Council

13 October 2009	Ordinary Meeting of Council
20 October 2009	Ordinary Meeting of Council

1 December 2009	Ordinary Meeting of Council
8 December 2009	Ordinary Meeting of Council

- B. That the first meeting for 2010 be held on 3 February 2010 and the normal meeting cycle resume on 24 February 2010.

*For the Resolution: The Mayor, Councillor E Malicki, Councillors
Holland, Keays, Szatow, Anderson, Duncombe,
Hardwick, Cross & Ebbeck*

Against the Resolution: Councillor Hall

396 **Bradfield Park Preschool & Child Care Centre Inc - Surrender of Lease**

File: P36250

To advise Council of a Surrender of Lease request from Bradfield Park Preschool and Child Care Centre Inc for the lease of 51-53 Bradfield Road, West Lindfield.

Resolved:

(Moved: Councillors Cross/Ebbeck)

- A. That Council accept the Surrender of Lease from Bradfield Park Preschool and Childcare Centre Inc for the lease of 51-53 Bradfield Road, West Lindfield.
- B. That the Mayor and General Manager be authorised to execute all relevant documents associated with the Surrender of Lease.
- C. That the Council Seal be affixed to the relevant documents.

CARRIED UNANIMOUSLY

397 **Funding for Council Submission on Ku-ring-gai Draft Local Environmental Plan (Town Centres) 2008**

File: S04151

To have Council allocate an appropriate level of funding for the preparation of a Council submission on Ku-ring-gai draft Local Environmental Plan (Town Centres) 2008.

Resolved:

(Moved: Councillors Ebbeck/Cross)

- A. That Council engage the services of a consultant to prepare a submission on the draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008.
- B. That Council allocate up to a maximum of \$5,000 to prepare the submission with the funding being sourced from the December 2008 budget review.

*For the Resolution: The Mayor, Councillor E Malicki, Councillors
Holland, Keays, Szatow, Anderson, Duncombe,
Cross & Ebbeck*

Against the Resolution: Councillors Hall & Hardwick

398 **Bushland, Catchments & Natural Areas Reference Group – Minutes of Meeting held 11 August 2008**

File: S03448

To bring to the attention of Council the proceedings from the Bushland, Catchments & Natural Areas Reference Group meeting held on Monday, 11 August 2008.

Resolved:

(Moved: Councillors Keays/Hall)

- A. That the minutes of the Bushland, Catchments and Natural Areas Reference Group of the 11 August 2008 be received and noted.
- B. That the Ku-ring-gai Town Centres Development Control Plan be aligned with the Integrated Water Cycle Management Policy and Strategy if adopted.
- C. That the Ku-ring-gai Town Centres Development Control Plan includes specific objectives and controls requiring the consideration of the impact on

groundwater flows particularly in areas where there is significant vegetation downstream from the proposed development.

- D. That staff consider the suggestions by the working group in the revision of the Bushland Plan of Management.
- E. That the Bushland Plan of Management be reviewed by June 2009, following the completion of the mapping of the critically endangered and endangered ecological communities.
- F. That Council undertake an environmental assessment of the St Ives Showground site as part of the Master plan process.
- G. That an education programme on the impacts of pollution from building sites be incorporated into the Management Plan for 2009/10.

CARRIED UNANIMOUSLY

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

The Original Motion was:

(Moved: Mayor, Councillor Malicki/Councillor Ebbeck)

- A. *That the minutes of the Bushland, Catchments and Natural Areas Reference Group of the 11 August 2008 be received and noted.*
- B. *That the Ku-ring-gai Town Centres Development Control Plan be aligned with the Integrated Water Cycle Management Policy and Strategy if adopted.*
- C. *That the Ku-ring-gai Town Centres Development Control Plan includes specific objectives and controls requiring the consideration of the impact on groundwater flows particularly in areas where there is significant vegetation downstream from the proposed development.*
- D. *That staff consider the suggestions by the working group in the revision of the Bushland Plan of Management.*
- E. *That the Bushland Plan of Management be reviewed by March 2009, following the completion of the mapping of the critically endangered and endangered ecological communities.*
- F. *That Council undertake an independent environmental assessment of the St Ives Showground site as part of the Master plan process.*
- G. *That an education programme on the impacts of pollution from building sites be incorporated into the Management Plan for 2009/10.*

399

Integrating Sustainability in Local Government Symposium

File: S04730

For Council to nominate participants to attend the Integrating Sustainability in Local Government symposium on 24 and 25 November 2008 at Luna Park, North Sydney.

Resolved:

(Moved: Councillors Ebbeck/Cross)

That Councillor S Holland be nominated to attend the Integrated Sustainability in Local Government symposium to be held on 24 and 25 November 2008 at Luna Park, North Sydney.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN (cont)

400

Queen's Portrait

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File: P54796

Notice of Motion from Councillors Tony Hall, Carlyne Hardwick, Rakesh Duncombe, Jennifer Anderson, Ian Cross and Nick Ebbeck dated 21 October 2008.

We move:

"That the Mayor be instructed to return the portrait of the Queen of Australia to its pre-existing position in the Council Chamber."

**The above Notice of Motion was
withdrawn**

**At 11.50pm a Motion moved by Councillors Ebbeck & Anderson
to extend the meeting until
all business completed was put to the vote
and CARRIED UNANIMOUSLY**

401

Council Committees

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File: S03901

Notice of Motion from Councillor Tony Hall dated 2 November 2008

I move that:

"In the interests of good governance for the citizens of the Ku-ring-gai Local Government Area, that:

- A. That the General Manager report to Council on the setting up of the following committees under Section 355 of the Local Government Act 1993, as amended:
1. Finance and General Purposes Committee consisting of a Councillor from each Ward, to be chaired by the Mayor and to have delegations of authority to be determined by Council.
 2. Policy and Planning Committee consisting of a Councillor from each Ward, not being a member of the Finance and General Purposes Committee, chaired by the Deputy Mayor with delegations to be determined by Council.
 3. Sports, Recreation, Parks and Open Space Committee, consisting of at least three Councillors, one of whom shall be elected chairperson by Council and other community members to be determined by Council.
 4. Community Development and Services Committee, consisting of at least three Councillors, one of whom shall be elected chairperson by Council and other community members to be determined by Council.
 5. That this matter be further discussed at a workshop on 19 November 2008.
- B. That the General Manager provides a Charter of Responsibilities and Delegations where applicable, for each of these Council Committees for consideration at the earliest opportunity, when election of Councillor office bearers of each Committee shall be held and determined and advertisements for the relevant community members shall be undertaken."

Resolved:

(Moved: Councillors Cross/Keays)

- A. That this matter be deferred until a workshop to be held on 19 November 2008.
- B. Further, that Council consider the establishment of Section 355 Committees and the briefing paper for the workshop on 19 November 2008 be to canvas the operation of these committees.

CARRIED UNANIMOUSLY

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

(Moved: Councillors Hall/Ebbeck)

That the above Notice of Motion, as amended, be adopted.

QUESTIONS WITHOUT NOTICE**402 Planning Panel's Draft LEP for Ku-ring-gai Town Centres - Letter**

File: S06523

Question Without Notice from Councillor N Ebbeck

1. Could the General Manager please explain from the resolution of Council for Mayoral Minute Item No 1 of Council meeting of 11 November 2008 and tell me what method of distribution will you be undertaking for the letter to the residents? Will it be direct mail at \$5,000 or hand delivered \$13,000?
2. And how and who will make this decision?

Answer by the General Manager

Councillor Ebbeck, can you just leave it to me until tomorrow to read the resolution again and I will send it via e-mail to everyone.

403 St Ives Showground

File: S02195

Question Without Notice from Councillor T Hall

In his written reply to the Member for Davidson, the Minister for Lands stated:

- "1. Ku-ring-gai Council has been approached by a number of sporting groups representing AFL and cricket upgrade proposals for the (St Ives) Showground.
2. Council has made the Department of Lands aware of these approaches."

In view of the Minister's response, would the General Manager seek the details of those "approaches" please?

Answer by the General Manager

Councillor, I will be happy to look into that and report back to Council.

404 **9, 15, 17 Dumaresq Street, Gordon**

File: S04552

Question Without Notice from Councillor T Hall

I seek confirmation why the staff recommendation to the Planning Panel has recommended a 10-storey commercial zoning on a recently purchased site by Council for a park known as 9, 15 & 17 Dumaresq Street, Gordon using \$7 million of Section 94 Developer Contribution funds in December 2007.

Will such a draft zoning, if approved, provide Council with legal problems due to the lots' community classification?

Answer by the Director Strategy

Take that on notice, Councillor Hall.

**Council resolved itself into Closed Meeting
with the Staff, Press and Public Excluded to deal with the following item
after a Motion moved by Councillors Ebbeck & Cross**

For the Motion: *The Mayor, Councillor E Malicki, Councillors
Holland, Keays, Szatow, Anderson, Duncombe,
Cross & Ebbeck*

Against the Motion: *Councillors Hall & Hardwick*

Councillor Hall departed

Councillor Hardwick departed

405 **General Manager's Performance Review**

File: S04516

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)(a) of the Act, and should be dealt with in a part of the meeting closed to the public.

Section 10A(2)(a) of the Act permits the meeting to be closed to the public for business relating to personnel matters concerning particular individuals (other than Councillors).

Confidential Mayoral Minute by the Mayor, Councillor Elaine Malicki dated 5 November 2008

Resolved:

That the matter be adopted in the terms discussed.

CARRIED UNANIMOUSLY

The Mayor adverted to the consideration of the matters referred to in the Minute numbered 405, and to the resolutions contained in such Minutes.

The Meeting closed at 12.42am

The Minutes of the Ordinary Meeting of Council held on 11 November 2008 (Pages 1 - 28) were confirmed as a full and accurate record of proceedings on 25 November 2008.

General Manager

Mayor / Chairperson