

## MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 13 OCTOBER 2009

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

Staff Present: General Manager (John McKee)  
Director Corporate (John Clark)  
Acting Director Development Assessment Services (Corrie Swanepoel)  
Director Operations (Greg Piconi)  
Director Strategy & Environment (Andrew Watson)  
Manager Corporate Planning & Sustainability (Peter Davies)  
Manager Urban & Heritage Planning (Antony Fabbro)  
Director Community (Janice Bevan)  
Governance & Records Consultant (David Linnert)  
Minutes Secretary (Christina Randall-Smith)

*The Meeting commenced at 7.00pm*

*The Mayor offered the Prayer*

### 198 APOLOGIES

File: S02194

Councillor Carolyne Hardwick tendered an apology for non-attendance and requested leave of absence.

**NOTE:** The Director Development & Regulation, Michael Miocic, tendered an apology for non-attendance.

#### **Resolved:**

(Moved: Councillors Hall/Keays)

That the apology by Councillor Carolyne Hardwick 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.

Councillor Jennifer Anderson declared a less than significant non-pecuniary interest to Item GB.13 - Outcome of Negotiations to Acquire 12 Woonona Avenue, Wahroonga (had met the owners of 12 Woonona Avenue, Wahroonga - not known prior to being elected as a Councillor).

## 199 CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499

### Resolved:

(Moved: Councillors Malicki/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 the Confidential Attachments to:

**Refer GB.4      Expression of Interest - Investment Advisory Services**  
Attachment 2: Investment Advisory Service EOI Evaluation

**Refer GB.9      Council Lands for Proposed Land Reclassification**  
Attachment 1: Ku-ring-gai Council Town Centre Asset Review, APP Corporation Pty Ltd, July 2008

**Refer GB.13: Outcome of Negotiations to acquire 12 Woonona Avenue, Wahroonga**

Attachment 1: e-mail from Agent  
Attachment 2: e-mail from Owner  
Attachment 3: Buyers Agent Assessment Sheet

Legal Advice from Council's Solicitor regarding the GST liability on the transaction received 12 October 2009.

**CARRIED UNANIMOUSLY**

**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:

<b>Late Items:</b>	<b>Refer New Item GB.13 - Outcome of Negotiations to Acquire 12 Woonona Avenue, Wahroonga -</b> Report by Director Strategy & Environment and Manager Strategic Assets & Property Management dated 7 October 2009 with confidential attachments.
<b>Confidential Late Agenda Information:</b>	<b>Refer New Item GB.13 - Outcome of Negotiations to Acquire 12 Woonona Avenue, Wahroonga:</b>  Attachment 1: e-mail from Agent Attachment 2: e-mail from Owner Attachment 3: Buyers Agent Assessment Sheet
<b>Councillors Information:</b>	<b>Removal of Council-owned Trees - Acron Road, St Ives</b> - Memorandum by Director Operations dated 30 September 2009 in answer to a Question Without Notice raised by Councillor Tony Hall at the Ordinary Meeting of Council held 22 September 2009.  <b>Identification of Rental Properties owned by Council</b> - Memorandum by Director Corporate dated 30 September 2009 in answer to a Question Without Notice raised by Councillor Tony Hall at the Ordinary Meeting of Council held 8 September 2009.  <b>Waste Disposal in Ku-ring-gai</b> - Memorandum by Director Operations dated 8 October 2009 in answer to a Question Without Notice raised by Councillor Tony Hall at the Ordinary Meeting of Council held 22 September 2009.
<b>Memorandum:</b>	<b>Refer GB.3 - Policy for Payment of Expenses &amp; Provision of Facilities to Councillors</b> - Memorandum by Director Corporate dated 13 October 2009 advising Council that the Division of Local Government, Department of Premier and Cabinet (the DLG) has issued revised Guidelines for the Payment of Expenses and Provision of Facilities for Mayors and Councillors in NSW (Circular 09-36 dated 7 October 2009) and advise alternative recommendations to the Director's Report.

**Refer New Item GB.13 - Outcome of Negotiations to Acquire 12 Woonona Avenue, Wahroonga -**

Memorandum by Director Strategy & Environment dated 13 October 2009 advising of alternative recommendations to the Officer's Report & a confidential attachment regarding legal advice.

**CONFIRMATION OF MINUTES**

200 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 22 September 2009  
Minutes numbered 181 to 197

**Resolved:**

(Moved: Councillors Keays/McDonald)

That Minutes numbered 181 to 197 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

**CARRIED UNANIMOUSLY**

**GENERAL BUSINESS**

201 **Disclosure of Interests Returns Register**

File: S02167

To table Council's Disclosure of Interests Returns Register in accordance with the Local Government Act.

**Resolved:**

(Moved: Councillors Duncombe/Keays)

That the tabling of the Disclosure of Interests Returns Register be noted.

**CARRIED UNANIMOUSLY**

202     **Policy for the Payment of Expenses and Provision of Facilities to Councillors**

File: S03779

To recommend the adoption of a revised Policy for the Payment of Expenses and Provision of Facilities to Councillors.

**Resolved:**

(Moved: Councillors Duncombe/Anderson)

- A. That the revised Policy for the Payment of Expenses and Provision of Facilities to Councillors be adopted.
- B. That the revised Guidelines be the subject of a further report to Council.

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

*Against the Resolution:*              *Councillor Hall*

203     **Expression of Interest - Investment Advisory Services**

File: S07683

To report on the outcome of the expression of interest (EOI) for provision of Investment Advisory Services.

**Resolved:**

(Moved: Councillors Duncombe/McDonald)

- A. That Denison Financial Advisory Pty Ltd be appointed to provide Council's investment advisory services for a term of two (2) years from 1 December 2009 on the basis of the terms outlined in their EOI submission.
- B. That the Common Seal be affixed to any necessary documents.
- C. That a further report be submitted to Council, upon the completion of the investment policy and strategy review by Denison.

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

*Against the Resolution:*              *Councillor Hall*

204 **Companion Animals Plan 2006 - 2011 Second Review**

File: S02449

To review implementation of Ku-ring-gai's Companion Animal Management Plan 2006-2011. The review provides updated statistics on each key area within the Plan, identifies the implementation status of each strategic action within the Plan and makes recommendations for any necessary modifications to the Management Plan.

**Resolved:**

(Moved: Councillors Duncombe/Keays)

That Council continue to implement the Companion Animal Management Plan in accordance with its established strategies and goals.

**CARRIED UNANIMOUSLY**

205 **Electricity Supply commencing 1 July 2010 - Options**

File: S02249

To seek Council approval for participation in a group tender for large use sites electricity supply, including street lighting, for a 5 year period commencing 1 July 2010.

**Resolved:**

(Moved: Councillors Duncombe/McDonald)

That Council enters into the group tender being facilitated by SSROC for the retail supply of electricity for street lighting and to sites that fall outside the 'Standard Form' prices available to 'Small Retail Customers' and that the General Manager be the delegated authority to sign the documents to join the tender and the contract.

**CARRIED UNANIMOUSLY**

206

**36 Bungalow Avenue, Pymble - Connection to Council Drainage Easement**

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File: SD1

Ward: Wahroonga

To consider a request by the owners of 36 Bungalow Avenue, Pymble, to alter the terms of the Council drainage easement over downstream properties to permit discharge into a Council pipeline.

**Resolved:**

(Moved: Councillors Duncombe/Malicki)

- A. That Council grants approval to alter the terms of the Council easement created by DP 7321 burdening 19 Reservoir Road.
- B. That authority be given to affix the Common Seal of the Council to the appropriate instrument for the extinguishment, amendment, alteration or creation of the drainage easement as necessary.
- C. That all costs associated with the extinguishment, amendment, alteration or creation of the drainage easement be borne by the applicant.

**CARRIED UNANIMOUSLY**

*Standing Orders were suspended to deal with items  
where there are speakers first after a  
Motion moved by Councillors Anderson & Duncombe*

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

*Against the Motion:                Councillors Keays, Szatow & Hall*

207

**Council Lands for Proposed Land Reclassification**

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File: S07624

**The following members of the public addressed Council:**

**T Martire  
A Crawley  
K Callinan  
B Irwin  
C Berlioz**

**C Drummer  
G Brown  
V Harris  
K Cowley  
P Moate  
J Langley  
S Wesley  
D Warner  
A Carroll  
G Tabuteau  
R Walker**

To determine those Council sites within the area covered by the draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008 which are to be reclassified to Operational land.

**Resolved:**

(Moved: Councillors Anderson/Malicki)

That this matter stand deferred for consideration after school term recommences and in the meantime, a Planning Committee meeting be held in public to discuss the best way forward with the process of re-classification.

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

*Against the Resolution:              Councillors Keays, Szatow, Hall & McDonald*

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

*(Moved: Councillors Szatow/Keays)*

*That the Council does not oppose re-classification as such, but wishes to assess each individual parcel of community classified land, as and when Development Applications are prepared.*

208

**Development Directions for the B2 Lands at South Turramurra**

File: S02846

**The following members of the public addressed Council:**

**D Mohr  
B Muir**

For Council to consider the direction of the future development of the abandoned B2 Road Corridor, South Turramurra.



**Councillor Hall departed during discussion****Resolved:**

(Moved: Councillors Holland/Malicki)

- A.
  1. That the Council and the Department of Planning enter into a Joint Venture with a developer (public or private) to develop the B2 land in South Turrumurra as a model Sustainable Village. This is to include design, building and selling of the housing.
  2. That to facilitate this venture, a meeting be held as soon as possible between the Department of Planning, Mayor and Ward Councillors, the General Manager and Director of Strategy, to secure the involvement of the Department of Planning in this extended process.
  3. That a meeting of the Planning Committee be held as soon as possible to discuss the process to achieve the outcome of developing a Sustainable Village, including best practice in Public Private Partnerships.
- B. That Council ask the Department of Planning to compulsorily acquire the unformed part of Hall Street with a view to closing the road. The agreement for this would be subject to the Department of Planning transferring the land to Council for nil consideration as part of the subdivision of the site.
- C. That Council, in accordance with *Division 4 LEPs of the Environmental Planning and Assessment Act, 1979 (as amended)* and section 27 of the *Local Government Act 1993* initiate a draft local environmental plan to zone the unformed portions of Hall Street and Warner Avenue consistent with the zoning of the adjoining land, and to reclassify the following from Community land to Operational land:

Lot 1	DP 746618
Lot 3	DP 746618
Lot 1	DP 847214
Lot 74	DP 216500
Lot 1	DP 840228
Lot 2	DP 840228

- D. That the General Manager be granted delegation to prepare and submit a planning proposal to the Minister for Planning in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979 (as amended)* to zone the unformed portions of Hall Street and Warner Avenue consistent with the zoning of the adjoining land and to reclassify lands referred to in C (above) from Community land to Operational land, such planning proposal is to include the following:
  - (i) a statement of the objectives or intended outcomes of the proposed instrument;
  - (ii) an explanation of the provisions that are to be included in the proposed instrument;

- (iii) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117);
  - (iv) such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument; and
  - (v) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.
- E. That the planning proposal exhibition process be in accordance with the NSW Department of Planning's LEP practice Note (PN09-003) 12 June 2009 and any relevant parts of LEPs and Council Owned land Best practice guidelines (DUAP 1997).
- F. That Council undertake a public hearing under the provisions of the *Local Government Act, 1993* for the proposed reclassification of Council land between Barwon Avenue and Chisholm Street, South Turramurra. The public hearing be held at an appropriate time after the public exhibition of the draft LEP/ planning proposal.
- G. That a new Memorandum of Understanding be developed and entered into with the Department of Planning which reflects the resolution of Council arising from this report.
- H. That the Mayor and General Manager be authorised to execute and affix the Common Seal on all documentation associated with the Memorandum of Understanding.
- I. That a new reserve be created to enable the funding for the next phase of this project and that progress, on expenditure, be reported to Council every three (3) months as part of the quarterly budget report.
- J. That \$80,000 is borrowed from the Infrastructure and Facilities Reserve to fund the next phase of the project in 2009/10. These funds are to be repaid to the Reserve with interest at 6.1% pa on the sale of any land associated with the project.
- K. That all funds taken from the Infrastructure and Facilities Reserve for this project are repaid with interest 6.1% pa on sale of any land associated with the project.
- L. That sufficient surplus revenue from the sale, less that borrowed and interest, be allocated for the purpose of constructing a new indoor aquatic and leisure facility at West Pymble Pool.

**CARRIED UNANIMOUSLY**

209

**Representation on Community Committees/Organisations**

File: S02355

For Council to make appointments to community committees/organisations for 2009/2010.

**Resolved:**

- A. That Council make appointments to community committees/organisations and nominate the following representatives:

**The Ku-ring-gai Police and Community Safety Committee**

Councillor Cheryl Szatow

**CARRIED UNANIMOUSLY**

**Ku-ring-gai Meals on Wheels**

The Mayor, Councillor Ian Cross

Alternate: Councillor Elise Keays

**CARRIED UNANIMOUSLY**

**Eryldene Trust**

Councillor Jennifer Anderson

Alternate: Councillor Cheryl Szatow

**CARRIED UNANIMOUSLY**

**Hornsby/Ku-ring-gai Bushfire Management Committee**

Councillor Elise Keays

Alternate: Councillor Elaine Malicki

**CARRIED UNANIMOUSLY**

**Metropolitan Public Libraries Association**

Councillor Jennifer Anderson

**CARRIED UNANIMOUSLY**

**Rural Fire Service District Liaison Committee**

Councillor Elaine Malicki

**CARRIED UNANIMOUSLY**

**Northern Sydney Regional Organisation of Councils (NSROC)**

Mayor, Councillor Ian Cross (automatic appointment)

Councillor Steven Holland

Alternate: Councillor Duncan McDonald

**CARRIED UNANIMOUSLY**

**Ku-ring-gai Youth Development Service Inc Management Committee**

Councillor Jennifer Anderson

**CARRIED UNANIMOUSLY**

**Rosedale Road Steering Committee**

Councillor Elaine Malicki

Councillor Cheryl Szatow

**CARRIED UNANIMOUSLY**

**KOPWA (Ku-ring-gai Old Peoples Welfare Association)**

Councillor Elise Keays

**CARRIED UNANIMOUSLY**

- B. That the community committees/organisations be informed of Council's representatives.

**CARRIED UNANIMOUSLY**

210

**Compliance Audit of Recently Completed Developments**

File: FY00100/2

To report on an audit of three recently completed residential flat developments to determine the number and type of non-compliances detected.

**Resolved:**

(Moved: Councillors Malicki/Keays)

- A. That a report come back to Council on compliance checks being undertaken on LEP 194 developments and the resourcing implications of increasing these checks.
- B. That the Mayor writes to the Minister for Planning with details of the Audit Report for 32 Marian Street, Killara.
- C. That the following motion be submitted to the forthcoming LGSA Conference:

*That the Local Government Association be more proactive in demanding better standards and accountability for Certifiers and the Building Professionals Board which governs them.*

**CARRIED UNANIMOUSLY**

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

*(Moved: Councillors Duncombe/Anderson)*

*That the report be received and the results of the Compliance Audit be noted.*

211 **Ku-ring-gai Council Climate Change Policy**

File: S06055

To report to Council on the consultation of the draft Climate Change Policy and recommend Council adopt the draft Climate Change Policy and targets.

**Resolved:**

(Moved: Councillors Holland/Keays)

- A. That Council adopt the draft *Climate Change Policy*.
- B. That Council sets a corporate emission target of 20% by 2020 based on year 2000 emissions and 90% by 2050 calculated on facilities and fleet emissions.
- C. That a Climate Change mitigation strategy be prepared within four (4) months for consideration in the 2010/11 financial year budget.
- D. That a Climate Change Adaptation Strategy for bushfires and storms be developed by June 2010 and reported to Council.

- E. That a new capital works program include an objective as part of the design and budget process to have a zero increase in the energy consumption compared with the current facilities.
- F. That the Revolving Energy Fund be retired.

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

*Against the Resolution:              Councillor Malicki*

212      **Community Strategic Plan 2030**

File: FY00019

For Council to adopt the draft Community Strategic Plan 2030 for Ku-ring-gai.

**Resolved:**

(Moved: Councillors Holland/McDonald)

- A. That Council adopt the draft *Community Strategic Plan 2030*.
- B. That the draft *Community Strategic Plan 2030* be used as the basis for the preparation of future Management Plans, in line with the Integrated Reporting Framework outlined by the Department of Local Government Reforms.

**CARRIED UNANIMOUSLY**

213      **Outcome of Negotiations to Acquire 12 Woonona Avenue, Wahroonga**

File: S07257

To advise Council of the outcome of negotiations to acquire 12 Woonona Avenue, Wahroonga.

*Council adjourned into Closed Session for discussion only  
(Commercial in Confidence) after a Motion moved by  
Councillors Duncombe & Holland was CARRIED,  
the Mayor ruled accordingly.*

*The Meeting resumed in Open Session*

*Those present were:*

*Mayor, Councillor I Cross  
Councillor J Anderson  
Councillor R Duncombe  
Councillor S Holland  
Councillor E Keays  
Councillor E Malicki  
Councillor D McDonald  
Councillor C Szatow*

**Resolved:**

(Moved: Councillors Anderson/Holland)

- A. That the action of the Council's agent in negotiating a nett purchase price excluding GST of 12 Woonona Avenue, Wahroonga within the determined price range be endorsed.
- B. That the Council agree to pay a gross price for 12 Woonona Avenue, Wahroonga which includes GST, noting that the GST component of that price will be refunded to the Council by way of an input tax credit.
- C. That the Mayor and General Manager be delegated authority to execute all documentation associated with the purchase of 12 Woonona Avenue, Wahroonga in accordance with resolutions A and B.

*For the Resolution: Councillors Holland, Keays, Szatow, Anderson,  
Duncombe & McDonald*

*Against the Resolution: The Mayor, Councillor I Cross & Councillor Malicki*

214 **Cancellation of Media Monitor Service**

File: EM00005/6

**Notice of Motion from Councillor Tony Hall dated 6 October 2009**

I refer to the Council's advice dated 30 September 2009 that the media service contracted by Council for some years principally for the use of the Mayor of the Day, called Media Monitors Pty Ltd cost the Council in the financial year 2008/9 \$7,361.76. Council otherwise relies on a weekly monitoring of media report which provides an excellent service to the Mayor and Councillors, since its inception in 1988.

I move:

"That this Council cancel the services of Media Monitors forthwith as this expense in the sum of \$7,361.76 for the financial year 2008/9 cannot be justified to our Ratepayers."

**Resolved:**

(Moved: Councillors Duncombe/McDonald)

That Council continue the subscription service with Media Monitors.

**CARRIED UNANIMOUSLY**

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

*A Motion moved by Councillors McDonald & Keays  
to have the following matter dealt with at the meeting was CARRIED.*

*The Mayor ruled Urgency  
and the matter was dealt with*

215 **Resident Questionnaire**

File: CY00054

Councillor Duncan McDonald advised the meeting that we have been approached by a resident group who suggest the benefits of us conducting a different type of survey to gather feedback from a representative number of local residents of Ku-ring-gai, as to their preferences over time, to move to another dwelling type – example: free standing house to a unit, or otherwise.

This would give Council a better understanding of the intentions of our local residents and be useful in our discussions (upcoming) with the Minister about catering for suitable housing choices in the future.

**Resolved:**

(Moved: Councillor McDonald/Mayor, Councillor I Cross)

That a Housing Preference Questionnaire be prepared and distributed with the upcoming rates notices if physically possible and be available on Council's website.

**CARRIED UNANIMOUSLY**



**INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS**

The Acting Director Development & Regulation, Corrie Swanepoel, will advise the Councillors of a date and time that an Inspections Committee will take place at 1 Elegans Avenue, St Ives.

*The Meeting closed at 10.34pm*

The Minutes of the Ordinary Meeting of Council held on 13 October 2009 (Pages 1 - 17) were confirmed as a full and accurate record of proceedings on 20 October 2009.

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General Manager

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Mayor / Chairperson