

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 19 OCTOBER 2010

Present: Deputy Mayor, Councillor J Anderson (Chairperson) (Roseville Ward)
Councillors S Holland & E Malicki (Comenarra Ward)
Councillors E Keays & C Szatow (Gordon Ward)
Councillor C Hardwick (St Ives Ward)
Councillor D McDonald (Wahroonga Ward)

Staff Present: General Manager (John McKee)
Director Corporate (John Clark)
Acting Director Development & Regulation (Anne Seaton)
Director Operations (Greg Piconi)
Director Strategy & Environment (Andrew Watson)
Manager Urban & Heritage Planning (Antony Fabbro)
Director Community (Janice Bevan)
Senior Governance Officer (Geoff O'Rourke)
Director Strategy & Environment's PA (Kim Thomas)

The Meeting commenced at 7.02pm

The Deputy Mayor offered the Prayer

338 APOLOGIES

File: S02194

The Mayor, Councillor Ian Cross tendered an apology for non-attendance [illness] and requested leave of absence.

Councillor Rakesh Duncombe tendered an apology for non-attendance [business commitment] and requested leave of absence.

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

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

Resolved:

(Moved: Councillors Malicki/McDonald)

That the apologies by the Mayor, Councillor Ian Cross, Councillors Rakesh Duncombe and Tony Hall for non-attendance be accepted and leave of absence be granted.

CARRIED UNANIMOUSLY

DECLARATIONS OF INTEREST

The Deputy 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.

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CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499

Resolved:

(Moved: Councillors Malicki/McDonald)

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:

GB.5 Proposed Granting of Drainage Easement affecting Council Land at the rear of Marian Street Theatre (2 Marian Street, Killara) -

Confidential Attachment C: Valuation Report and Confidential Attachment D: Applicants Agreement to Costs & Compensation.

GB.7 Receipt and Disposal of Domestic and Other Waste - Tender T27/2010 -

Confidential Attachment 1: Tender Committee Report and Confidential Attachment 2: Corporate Scorecard Reports.

C.1 Bessemer v Ku-ring-gai Council - NSW Supreme Court Proceedings

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:

Late Items: Confirmation of Ordinary Meeting of Council Minutes

Meeting held 12 October 2010

Minutes numbered 312 to 337

Refer GB.8 Urban Design Excellence Panel (UDEP) Terms of

Reference - New Report with deferred report and attachments from Ordinary Meeting of Council held 12 October 2010

Refer NM.2 Wild and Exotic Animals Performing - Notice of Rescission from Councillors Steven Holland, Elise Keays and Tony Hall dated 22 September 2010 - Deferred from Ordinary Meeting of Council held 12 October 2010

Refer C.1 Bessemer v Ku-ring-gai Council - NSW Supreme Court Proceedings - Report by General Manager and Corporate Lawyer dated 15 October 2010.

Councillors Information: **SEPP1 Reporting Variations to Development Standards July - September 2010** - Memorandum by Manager Development Assessment Services dated 13 October 2010 regarding information relating to the request by the NSW Department of Planning of Councils monitoring the use of the Director-General's assumed concurrence under SEPP1 - Development Standards along with an attachment showing Development Applications approved between July and September 2010.

Memorandums: **Refer GB.4 - Sydney Adventist Hospital, Wahroonga - Submission of Environmental Assessment** - Memorandum by Acting Director Strategy & Environment dated 19 October 2010 regarding an attached summary of Council's key issues and recommendations.

Refer GB.6 - Sustainability for Projects over \$200,000 - Memorandum by Director Operations dated 12 October 2010 with an attached A3 size copy of the listed projects.

Refer NM.2 - Deferred Notice of Rescission - Wild & Exotic Animals Performing - Memorandum by General Manager dated 19 October 2010 advising that due to not all Councillors being present at tonight's meeting, the Notice of Rescission is deferred until the next available Ordinary Meeting of Council to be held on 9 November 2010.

CONFIRMATION OF MINUTES

340 Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 12 October 2010
Minutes numbered 312 to 337

Resolved:

(Moved: Councillors Keays/McDonald)

That the Minutes numbered 312 to 337 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR

341

Proposed Reclassification of Council Land - 5 Ray Street, Turramurra

File: S07624/2

The Ku-ring-gai Local Environmental Plan (Town Centres) 2010, came into effect on 25 May, 2010, with Council adopting the Ku-ring-gai Development Control Plan (Town Centres) 2010 on 8 June, 2010. The Ku-ring-gai Development Control Plan (DCP) provides details of the planning objectives for each of the town centres.

Council has resolved to reclassify 19 sites within the town centres from Community to Operational land, (including 12 William Street, Turramurra) to make possible the delivery of the planning objectives detailed in the DCP. The first step in the reclassification process is now underway with the Planning Proposal on exhibition by the Ku-ring-gai Planning Panel.

On 30 June 2010, Council hosted a community briefing on the Ray Street, Turramurra precinct. The purpose of the briefing was for Council to gain an appreciation of Coles' potential development options for the site. Adjacent to the Coles site are Council's library and car park facilities (located on two parcels of land including 5 Ray Street and 12 William Street, Turramurra) which are classified community land.

Following further consideration of the options presented to Council, and in an attempt to maximize the community benefits through the redevelopment of our site which has the potential to provide for a range of uses which could include community facilities, retail/commercial areas, and improvements to the public domain.

I am proposing that 5 Ray Street, Turramurra, also be included in the process to reclassify the site from community land to operational land status.

Proceeding with the reclassification has the potential to provide Council with the flexibility to deliver the key community infrastructure that is required to support the new development and population, and also improvements to our facilities, public domain areas and civic places.

Resolved:

(Moved: Councillors Anderson/McDonald):

That the matter be deferred until the Mayor is present at an Ordinary Meeting of Council.

CARRIED UNANIMOUSLY

GENERAL BUSINESS**342 Proposed Granting of Drainage Easement affecting Council Land at the rear of Marian Street Theatre (2 Marian Street, Killara)**

File: DA0737/09

For Council to consider granting a drainage easement over Council land at Lot A DP329637, 2 Marian Street, Killara in favour of the owner of 16 and 16A Stanhope Road, Killara.

Resolved:

(Moved: Councillors Szatow/Keays)

That consideration of a proposed granting of drainage easement affecting Council land at the rear of Marian Street Theatre, 2 Marian Street, Killara be deferred pending a site inspection.

For the Resolution: Councillors Keays, Szatow, Hardwick and McDonald

Against the Resolution: Councillors Holland, Malicki and Anderson

343 Ku-ring-gai Library Customer Satisfaction Survey

File: S02130

To provide Council with the results from the 2009-2010 Customer Satisfaction Survey conducted in June 2010.

Resolved:

(Moved: Councillors Keays/McDonald):

That the report be received and noted.

CARRIED UNANIMOUSLY

344 **Investment Report as at 30 September 2010**

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File: S05273

To present to Council investment allocations and returns on investments for September 2010.

Resolved:

(Moved: Councillors Keays/McDonald):

- A. That the summary of investments and performance for September 2010 be received and noted.
- B. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

CARRIED UNANIMOUSLY

345 **Sustainability for Projects over \$200,000**

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File: FY00382/2

To advise Council of the sustainability provisions for all projects over \$200,000.

Resolved:

(Moved: Councillors Keays/McDonald)

That the report be received and noted.

CARRIED UNANIMOUSLY

346 **Receipt and Disposal of Domestic and Other Waste - Tender T27/2010**

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File: S08371

To seek Council's acceptance of the tenders for the disposal of domestic, trade, green and other waste products from Council's services.

Resolved:

(Moved: Councillors Keays/Malicki)

- A. That Council accept the tender for a three year contract from Veolia Environmental Services to receive Council's Domestic, Trade and Gross Pollutant Trap waste at its Clyde Transfer Station and cleanup to Veolia's Greenacre landfill.
- B. That Council accept the alternative offer from Waste Service NSW Environmental Services to receive Council's domestic Green Waste at the Ryde Transfer Station for the duration of the lease of land adjacent to the Transfers Station between Ryde Council and Waste Service NSW.
- C. That upon expiry of the land lease between Waste Service NSW and Ryde Council, Council's green waste disposal Contract will be terminated and a green waste disposal contract re-tendered.
- D. That Council accept the tender from WSN/ES for a three year Contract to receive Council's street sweepings.
- E. That the General Manager and Mayor be given delegated authority to sign all contract documentation and affix the common seal of Council.
- F. That Council's decision be placed on Council's web site and notices.

CARRIED UNANIMOUSLY

347

Sydney Adventist Hospital, Wahroonga - Submission of Environmental Assessment

File: S05913

To provide Council with a draft response to the Environmental Assessment of staged alterations and additions to the Sydney Adventist Hospital (SAN) facilities.

Resolved:

(Moved: Councillors Keays/Malicki):

- A. That Council adopt the draft submission titled *Sydney Adventist Hospital (SAN) Wahroonga Environmental Assessment for the Staged Alterations and Additions Application MP10_0070*.
- B. That Council forward the submission titled *Sydney Adventist Hospital (SAN) Wahroonga Environmental Assessment for the Staged Alterations and Additions Application MP10_0070* to the Department of Planning.
- C. That Council provide a copy of the submission titled *Sydney Adventist Hospital (SAN) Wahroonga Environmental Assessment for the Staged Alterations and Additions Application MP10_0070* to the Sydney Adventist Hospital.

- D. That Council offer to discuss the issues raised in the submission with representatives from the Sydney Adventist Hospital and the Department of Planning.

CARRIED UNANIMOUSLY

348 **Carols in The Park - Sponsorship Proposal**

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File: S05650

The following member of the public addressed the Council:

J Wiseman

To advise Council of a sponsorship proposal from Carols in the Park.

Resolved:

(Moved: Councillors Keays/Szatow):

- A. That Council sponsor Carols in the Park for \$15,000 in 2010.
- B. That a sponsorship agreement be developed with Carols in the Park, according to Council's Sponsorship and Donations Policy, reflecting the recommended sponsorship amount as determined in Recommendation A of this report.

For the Resolution: Councillors Holland, Keays, Szatow, Hardwick and McDonald

Against the Resolution: Councillors Malicki and Anderson

349 **Urban Design Excellence Panel (UDEP) Final Report**

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File: S08367

To provide Council with additional clarification on Councillor and community participation in the Urban Design Excellence Panel (UDEP) process.

Resolved:

(Moved: Councillors Malicki/Keays)

That the matter be deferred to allow Staff to prepare an alternative process where Stage 2 of the UDEP process is open to the public.

For the Resolution: Councillors Holland, Malicki, Keays, Anderson, Hardwick and McDonald

Against the Resolution: Councillor Szatow

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

(Moved: Councillors Keays/Szatow)

- A. That Council adopt the Urban Design Excellence Panel (UDEP) Terms of Reference as attached to the report.*
- B. That Council adopt and commence the Expression of Interest (EOI) selection process for the Urban Design Excellence Panel members as set out in the report.*
- C. That Council adopt the new charges for the Urban Design Excellence process as set out in the report and in the Urban Design Excellence Panel (UDEP) Terms of Reference.*
- D. That Council resolve to exhibit a revision to Council's Fees and Charges Schedule, for the required statutory period, incorporating the adopted Urban Design Excellence Panel charges plus GST.*

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

350 Neighbourhood Safer Places in Ku-ring-gai Bushfire Prone Areas

File: S02546

Notice of Motion from Councillor Tony Hall dated 6 October 2010

I fully support the call by Ku-ring-gai Mayor Cross to be prepared for the coming bushfire period but Councils too must share the responsibility for the safety of residents and their property, in such dangerous periods.

As a large Council area subject to bushfire threat every summer, Ku-ring-gai Council needs to identify, designate and maintain Neighbourhood Safer Places or NSPs in those areas subject of bushfire intrusion. I recall in the 1994 bushfires in St Ives as a Councillor then, I was asked to open Toolang Road Oval, St Ives for local residents' cars threatened by fire to their homes below the National Park along the bushfire rim, but the Council's staff refused to unlock the gates. Yet there are still no NSPs in North St Ives, along Warrimoo Avenue, for instance.

Since 2009 as a result of the tragic Victorian Bushfires, the NSW Rural Fire Service has implemented "places of last resort" or NSPs as described in the background

information under separate cover, in many NSW Councils including Hornsby, Willoughby and Lane Cove Council areas. Ku-ring-gai has been added and a list of sites are included in the Councillors Additional Agenda Information but are not considered to be comprehensive enough.

Designated NSP areas must meet the NSW Rural Fire Service's radiant heat criteria especially in high risk areas on the outskirts of large metropolitan areas such as Sydney and I believe from past experience as already mentioned, Ku-ring-gai too should ensure all its affected bushfire prone areas have accessible NSPs.

I move:

"That Ku-ring-gai Council review its involvement with the NSW Rural Fire Service's 'Neighbourhood Safer Places' program for implementation in this 2010 Bushfire Season that commenced on 1 October to assess whether any further accessible sites may be nominated from those already designated and reported back to Council."

Resolved:

(Moved: Councillors Anderson/McDonald)

That consideration of the matter be deferred until the next meeting of Council to be held on Tuesday, 9 November 2010 for further information from the Rural Fire Service on areas not currently covered.

CARRIED UNANIMOUSLY

351

Wild and Exotic Animals Performing

File: S02447

Notice of Rescission from Councillors Steven Holland, Elise Keays and Tony Hall dated 22 September 2010

We, the undersigned, rescind the Motion of 10 August 2010 (Minute No 248) relating to the overturning of the Council's ban on wild and exotic animals performing in travelling circuses.

*The above Notice of Rescission
was withdrawn due to the Mayor and two Councillors
not being present at the Meeting
but will be presented to Council on 9 November 2010*

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

An Inspection Committee will take place at the following address:

2 Marian Street, Killara - rear of Marian Street Theatre

and Councillors will be contacted regarding a suitable date and time.

Council resolved itself into Closed Meeting
with the Press and Public Excluded
after a Motion moved by Councillors Keays and Szatow
to deal with the following item:

352 **Bessemer v Ku-ring-gai Council - NSW Supreme Court Proceedings**

File: S03421

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

Section 10A(2)(g) of the Act permits the meeting to be closed to the public for business relating to advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

This matter is classified confidential under section 10A(2)(g) because it contains advice concerning a legal matter that:

- (a) is a substantial issue relating to a matter in which the Council is involved
- (b) is clearly identified in the advice, and
- (c) is fully discussed in that advice.

It is not in the public interest to release details of the legal advice as it would prejudice Council's position in court proceedings.

Report by General Manager and Corporate Lawyer dated 15 October 2010

Resolved:

(Moved: Councillors Malicki/McDonald)

That the Council proceed in the terms proposed by the Officers' report.

For the Resolution: *Councillors Holland, Malicki, Szatow, Anderson,
Hardwick and McDonald*

Against the Resolution: *Councillor Keays*

The meeting reverted to Open Council
following a Motion moved by Councillors Malicki and McDonald
which was CARRIED UNANIMOUSLY

The General Manager adverted to the consideration of the matter referred to in
Minute numbered 352, and to the resolution contained in such Minute.

The Meeting closed at 8.11pm

The Minutes of the Ordinary Meeting of Council held on 19 October 2010 (Pages 1 - 12) were
confirmed as a full and accurate record of proceedings on 9 November 2010.

General Manager

Mayor / Chairperson