

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 23 NOVEMBER 2010

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)
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)
Director Operations (Greg Piconi)
Director Strategy & Environment (Andrew Watson)
Manager Urban & Heritage Planning (Antony Fabbro)
Acting Director Community (Danny Houseas)
Senior Governance Officer (Geoff O'Rourke)
Mayor's PA (Sigrid Banzer)

The Meeting commenced at 7.00pm

The Mayor offered the Prayer

APOLOGIES

File: S02194

NOTE: Director Community, Janice Bevan, tendered an apology for non-attendance [prior commitment].

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.

377

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499

Resolved:

(Moved: Councillors Keays/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 confidential attachments to the following reports:

- GB.7 Proposed Granting of Drainage Easement affecting Council Land at the rear of Marian Street Theatre (2 Marian Street, Killara)**
- GB.12 Tender T22/2010 - Concrete Works 2010 to 2013 - Schedule of Rates Contractor List**
- GB.13 Tender T26/2010 - Stormwater Drainage Works - Canoon Road & Barwon Avenue, South Turramurra**

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:

Memorandums: Refer GB.4 - Consideration of the Amended Draft Ku-ring-gai Town Centres Public Domain Plan 2010 - Memorandums by Manager Urban & Heritage Planning dated 23 November 2010 advising of attached revised diagrams to Attachment 4 - Public Domain Plan of the report plus clarification and minor amendment to Diagram 2B.2 & Figure 2B.4 of Turramurra Town Centre Strategies & Detail Plan & Sections, inclusive, of Attachment 4.

Refer GB.5 - Post Exhibition Report on Draft Ku-ring-gai Contributions Plan 2009 (2010) - Memorandum by Manager Urban & Heritage Planning dated 17 November 2010 with attached coloured copy of the Ku-ring-gai Contributions Plan 2010 publication.

Refer GB.8 - Annual Report 2009 to 2010 - Memorandum by Director Strategy & Environment dated 23 November 2010 with attached revised version of the Annual Report publication.

CONFIRMATION OF MINUTES

378 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 9 November 2010
Minutes numbered 353 to 376

Resolved:

(Moved: Councillors Keays/McDonald)

That Minutes numbered 353 to 376 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

GENERAL BUSINESS

Councillor Hall arrived

379 **Smartgrid Project - Monopoles on Public Land**

.
File: S02249

To advise Council on Energy Australia's Smart Grid/Smart City project and the impacts on public land.

Resolved:

(Moved: Councillors Keays/Anderson)

That Council receive and note the Officer's report.

CARRIED UNANIMOUSLY

380 **Operational Plan 2010 to 2014 - 1st Quarter Review**

.
File: FY00382/2

To report to Council the progress over the period July to September 2010 against the 2010-2014 Operational Plan.

Resolved:

(Moved: Councillors Keays/Szatow)

That the report on the progress of the Key Performance Indicators contained in the 2010-2014 Operational Plan for the 1st Quarter of the Plan be received and noted.

For the Resolution:

*The Mayor, Councillor I Cross, Councillors
Holland, Malicki, Keays, Szatow, Anderson and
McDonald*

Against the Resolution:

Councillor Hall

Councillor Hardwick arrived

381 **Tender T22/2010 - Concrete Works 2010 to 2013 - Schedule of Rates Contractor List**

.
File: S06612/1

To consider the appointment of tenderers to a list of Schedule of Rates Contractors for Concrete Works 2010 to 2013.

Resolved:

(Moved: Councillors Keays/Szatow)

- A. That Council accept the Schedule of Rates for Concrete Works submitted by the following tenderers and these tenderers make up the list of Contractors to be engaged as needed for the construction, reconstruction, restoration and repair of concrete footpaths, kerbs, gutters and associated works for the period ending 30 June 2013.

Shannon Civil Pty Ltd;
Kelbon Project Services Pty Ltd;
Foster Civil Contracting Construction Pty Ltd;
Stateline Asphalt Pty Ltd;
Mansour Paving (Aust) Pty Ltd;
CW Concrete Pty Ltd;
Performance Concrete Pty Ltd;
Ally Property Services Pty Ltd;
Synergy Civil and Constructions Pty Ltd; and
Comfortone Constructions Pty Ltd

- B. That the all tenderers be advised of Council's decision
- C. That the Mayor and General Manager be delegated authority to sign the contracts and affix Council's Seal.

CARRIED UNANIMOUSLY

382 **Tender T26/2010 - Stormwater Drainage Works - Canoon Road & Barwon Avenue, South Turramurra**

File: S08369

To consider the tenders received for the stormwater drainage works at Canoon Road and Barwon Avenue, South Turramurra and appoint the preferred tenderer.

Resolved:

(Moved: Councillors Keays/Holland)

- A. That Council accept the tender from Avoca Construction (NSW) Pty Ltd for the construction of stormwater drainage works in Canoon Road and Barwon Avenue South Turramurra.
- B. That the General Manager and Mayor be given delegated authority to sign all contract documentation and affix the common seal of Council.
- C. That Council's decision be placed on Council's web site and notices.

CARRIED UNANIMOUSLY

383 **2010 to 2011 Budget Review - 1st Quarter ended 30 September 2010**

File: FY00382/2

To report on the review of actual expenditure and income against the budget for the quarter ended 30 September 2010.

Resolved:

(Moved: Councillors Keays/Szatow)

- A. That the Budget Review report as at 30 September 2010 be adopted.
- B. That the Restricted Assets Report Forecast to 30 June 2011 as at 30 September 2010, as shown in Attachment C, be noted.
- C. That the reserve movements contained in the report be approved.

CARRIED UNANIMOUSLY

*Standing Orders were suspended to deal with items
where there are speakers first after a
Motion moved by Councillors Szatow and Anderson
was CARRIED UNANIMOUSLY*

384

Consideration of the Amended Draft Ku-ring-gai Town Centres Public Domain Plan 2010

.
File: S05980

The following member of the public addressed Council:

C Berlioz

Councillor Duncombe arrived during address

The purpose of the report is to enable Council to consider the amended draft Ku-ring-gai Town Centres Public Domain Plan 2010 for adoption without reference to a preferred paving or furniture type.

Resolved:

(Moved: Councillors Keays/Malicki)

- A. That Council adopt Part 1 – Introduction, Objectives and Planning Principles of the amended draft *Ku-ring-gai Town Centres Public Domain Plan 2010* without reference to a preferred furniture or paving type.
- B. That Council adopt Part 2 - Town Centre Public Domain Plans of the amended draft *Ku-ring-gai Town Centres Public Domain Plan 2010* without reference to a preferred furniture and paving type.
- C. That Council adopt Part 3 - Technical Manual of the amended draft *Ku-ring-gai Town Centres Public Domain Plan 2010* without reference to a preferred furniture and paving type.
- D. That a workshop be held with Councillors to select of the paving design including the concrete colour, aggregate and finish.
- E. That Council proceed to public tender to invite furniture manufacturers to express interest in the design, fabrication and provision of a suite of stainless steel furniture elements (seats, bins, benches, tree guards, bubblers etc.) for the town centres.
- F. That Council defer the decision on a preferred lamp and light fitting types until further research is undertaken and that a further report be prepared with recommendations for a range of street and pedestrian lights for the centres.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**385 Proposed Reclassification of Council Land - Village Green Parade, St Ives**

File: S07624/2

The following members of the public addressed Council:

**J Cooper
K Cowley
A Carroll
J Harwood
P Moate
C Berlioz**

Notice of Motion from Councillor T Hall dated 15 November 2010

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 now has resolved to reclassify 20 sites within the town centres from Community to Operational land, 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, with Ray Street Turramurra, adopted for exhibition on 9 November 2010.

One of the most significant sites left out of the process, and indeed a group of sites, as attached in Plan 3 (a), that could lead to the most profound positive changes to the public domain in Ku-ring-gai, are Council's landholdings fronting the Village Green and providing the interface to the St Ives Shopping Village. With the adoption of the Village Green masterplan by Council earlier this year, and an anticipated program of upgrades to the Village Green over a number of years, there is a significant public benefit which could arise from the inclusion of Council's landholdings in this location in the planning and redevelopment process.

These opportunities can only be harnessed if Council's landholdings are reclassified from Community to Operational. The redevelopment of the St Ives Shopping Village in the foreseeable future provides the catalyst for new and improved public domain infrastructure and the ability to negotiate a more appropriate interface between the Shopping Village and one of Council's most important public spaces, the St Ives Shopping Village. If Council ignores this opportunity residents may have to wait another fifty years for the next redevelopment cycle to maximise the community benefits involved.

I therefore move:

- A. That Council adopts the following site for the purpose of reclassification to operational land status in a new Local Environmental Plan:

- i. Lot 2 DP 822373, 11-21 Cowan Road;
 - ii. Lot 1 DP 420106, 11-21 Cowan Road;
- B. That Council requests that the Ku-ring-gai Planning Panel prepares a new draft Local Environmental Plan as an amending instrument to Ku-ring-gai Local Environmental Plan (Town Centres) 2010, to list Lot 2 DP 822373, 11-21 Cowan Road and Lot 1 DP 420106, 11-21 Cowan Road to have operational land status.

*Council adjourned during the discussion of this item,
for a short interval at 8.08pm to read legal advice
after a Motion moved by
Councillors Malicki and Hardwick was CARRIED,
The Mayor ruled accordingly.*

*For the Motion: The Mayor, Councillor I Cross, Councillors
Holland, Malicki, Keays, Szatow, Anderson,
Duncombe, Hardwick and McDonald*

Against the Motion: Councillor Hall

The Meeting resumed at 8.18pm

Those present were:

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

Following the adjournment, it was moved by
Councillors Malicki and Hall that the legal advice be released
and made available to the public which was CARRIED UNANIMOUSLY

Resolved:

(Moved: Councillors Malicki/Hardwick)

That Council take immediate steps to subdivide Lot 2 DP 822373, 11 to 21 Cowan Road to divide off the access handle and add it to Village Green Parade, and that any decision on further reclassification at St Ives be deferred until that has occurred.

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

*Against the Resolution: The Mayor, Councillor I Cross, Councillors
Anderson, Duncombe, Hall*

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

(Moved: Councillors Hall/Anderson)

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

GENERAL BUSINESS (cont)

386

2010 Financial Assistance Grants to Community Groups

File: FY00432/2

To advise Council of applications received from community groups for financial assistance in 2010 and to recommend subsequent funding allocations.

Resolved:

(Moved: Councillors Anderson/Duncombe)

That the community and cultural groups, as listed under each category, receive the recommended amount of financial assistance from Council in 2010.

1. Category: Small Equipment

Name of Organisation	Amount Recommended \$
Albert Drive Community Fire Unit	450
Dial-a-Mum Inc	1,900
Duke of Edinburgh Award Scheme - Killara High School	938
East Lindfield Community Pre-school Association Inc.	1,900
East Roseville Bowling Club Ltd.	1,900
Easy Care Gardening Inc	1,900
English at Gordon – Gordon Baptist Church	3,049
Killara Probus Club Inc	690
KU Killara Park Preschool	1,000
Ku-ring-gai Neighbourhood Centre Inc	890
Ku-ring-gai Youth Orchestra	1,820

Name of Organisation	Amount Recommended \$
Lady Game Community Kindergarten	2,000
Lindfield Montessori Preschool	1,637
Lorna Hodgkinson Sunshine Home	2,000
Northside Branch Budgerigar Society of NSW Inc	500
Parkinson's NSW Hornsby Ku-ring-gai Support Group	1,000
Roseville Scout Group	1,700
St Ives Girl Guides / Brui District	2,115
Turramurra Toastmasters	1,750
Warringah Rainbow Club (Rainbow Club Australia)	300

2. Category: Community Development

Name of Organisation	Amount Recommended \$
2 nd /3 rd Lindfield Scout Group	2,714
Community Friendship Group "Cooinda"	1,000
Constant Companion	1,240
Dial-a-Mum Inc	3,000
Hornsby Ku-ring-gai Association, Action for Mental Health	1,500
Ku-ring-gai Community Workshop "The Shed" Inc	4,942
Ku-ring-gai Family Support Program/ Ryde Family Support	1,500
Ku-ring-gai Historical Society Inc	1,286
Ku-ring-gai Horticultural Society Inc	979
Ku-ring-gai Neighbourhood Centre (KNC)	3,610
Parkinson's NSW Hornsby Ku-ring-gai Support Group	2,000
Single with Children	1,341
Turramurra Toastmasters	2,523

3. Category: Arts/Cultural

Name of Organisation	Amount Recommended \$
Australian Dance Vision Co Ltd	4,000
Centacare Broken Bay – Boonah Creative Arts Centre	600
East Lindfield Community Pre-school Association Inc.	1,970
English at Gordon – Gordon Baptist Church	1,000
The Eryldene Trust	1,845
“Ignite the Flame” Ku-ring-gai Combined Churches Festival	4,000
Ku-ring-gai Art Society	2,000
Ku-ring-gai Historical Society Inc	2,370
Ku-ring-gai Male Choir Inc	1,265
Ku-ring-gai Youth Orchestra	4,970
Lindfield Montessori Preschool	986
Pymble Turramurra Kindergarten	4,000
The Singing Treatts	2,790
	Funding is conditional on the supply of proof of incorporation, audited financial statement and 2009/2010 Annual Report.

CARRIED UNANIMOUSLY

387

Analysis of Land & Environment Court Costs - 1st Quarter, 2010 to 2011

File: S02466

To report legal costs in relation to planning matters in the Land & Environment Court for the quarter ended September 2010.

Resolved:

(Moved: Councillors Malicki/McDonald)

That the analysis of Land & Environment Court costs for the first quarter to 30 September 2010 be received and noted

CARRIED UNANIMOUSLY

388 **Investment Report as at 31 October 2010**

.
File: S05273

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

Resolved:

(Moved: Councillors Malicki/McDonald)

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

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

Against the Resolution: Councillor Hall

389 **Post Exhibition Report on Draft Ku-ring-gai Contributions Plan 2009 (2010)**

.
File: S06785/2

To report the draft Ku-ring-gai Contributions Plan 2009 to Council following its exhibition, to outline amendments made as a consequence of that exhibition and to seek formal endorsement by Council.

Resolved:

(Moved: Councillors Malicki/Szatow)

- A. That Council adopt the *Ku-ring-gai Contributions Plan 2010* as included in Attachment 1.

- B. That the *Ku-ring-gai Contributions Plan 2010* be formally referred to the Minister for Planning together with such supporting documentation as required to support a formal request that the wording of the current s94E Direction that provides the present exemption for the 'grandfathered' redevelopment areas be amended with a description that relates to the new Contributions Plan as it comes into force.
- C. That Council staff be authorised to present *Ku-ring-gai Contributions Plan 2010* to the Department of Planning and to liaise with the Department of Planning and the Office of the Minister for Planning as required to support the development contributions system at Ku-ring-gai Council.
- D. That an 'in force' date be nominated in consultation with the Department of Planning and, if no commitment is forthcoming within the statutory period of 28 days, that a notice be placed in the newspaper in compliance with clause 31(2) of the *Environmental Planning and Assessment Regulation, 2000* nominating an 'in force' date that supports the legal and administrative processes required.
- E. That Council staff continue to pursue the matter of the zoning of land SP2 for acquisition for roads under the Standard Template.
- F. That delegation be granted to the General Manager, Ku-ring-gai Council, to make all necessary corrections and amendments to the revised Ku-ring-gai Contributions Plan 2010 for drafting inconsistencies, or minor amendments as necessary to ensure consistency with legislative requirements.

CARRIED UNANIMOUSLY

390

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 DP 329637, 2 Marian Street, Killara in favour of the owner of 16 and 16A Stanhope Road, Killara.

Resolved:

(Moved: Councillors Keays/Szatow)

- A. That Council approve the creation of a new easement over Lot A DP329637.
- B. That Council accept the compensation amount based on Option 1 and for the developer to be responsible for all costs in creating the easement make good any damage to the surface of the land and replace any trees or vegetation as recommended in the report.

- C. That Council authorise the Mayor and General Manager to sign the documentation associated with the creation of the easement and to grant owners consent on the subsequent development application for the construction of the easement.
- D. That Council authorise the affixing of the Common Seal to the documentation associated with the creation of the easement.

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

Against the Resolution: Councillors Keays and Szatow

391 **Annual Report 2009 to 2010**

.
File: FY00382/2

To present to Council the Statutory Annual Report for 2009/2010 in accordance with Section 428 of the Local Government Act 1993.

Resolved:

(Moved: Councillors Duncombe/McDonald)

- A. That the Annual Report for the period, 1 July 2009 to 30 June 2010, be received and noted.
- B. That copies of the Annual Report be sent to the Minister for Local Government and the Division of Local Government.

CARRIED UNANIMOUSLY

392 **Final Report on the Urban Design Excellence Panel (UDEP) Terms of Reference and the Urban Design Excellence (UDE) Process**

.
File: S08367

To have Council adopt a process for the selection and operation of the Urban Design Excellence Panel (UDEP).

Resolved:

(Moved: Councillors Malicki/McDonald)

- A. That Council adopt the amended *Urban Design Excellence Panel (UDEP) Terms of Reference* at Attachment 2 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 of 12 October 2010 at Attachment 3 to the report and as outlined in the report.
- C. That Council adopt the charges for the Urban Design Excellence process as set out in the report of 12 October 2010 (Attachment 3 to the report) and in *the Urban Design Excellence Panel (UDEP) Terms of Reference* (Attachment 2 to the report).
 - i. A standard application fee - \$15,000.00.
 - ii. Second UDE Presentation Meeting by the Applicant - \$1,500.00.
 - iii. Reconvening of UDEP - \$2,000.00.
- 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.
 - i. A standard application fee - \$15,000.00 + GST.
 - ii. Second UDE Presentation Meeting by the Applicant - \$1,500.00 + GST.
 - iii. Reconvening of UDEP - \$2,000.00 + GST.

CARRIED UNANIMOUSLY

393

Heritage Reference Committee - Notes of Meeting held 20 September 2010

File: S07620

To advise Council of the notes of the Heritage Reference Committee meeting held 20 September 2010.

Resolved:

(Moved: Councillors Anderson/Hall)

- A. That Council receive and note the Heritage Reference Committee Meeting Notes of 20 September 2010.
- B. That the pathway between Mona Vale Road and Gowrie Close, St Ives, be named "Willryse Walk" after Willryse Poultry farm which originally occupied the site, subject to the approval of the Geographical Names Board.

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

Against the Resolution: *Councillors Malicki and Hardwick*

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

(Moved: Councillors Malicki/Holland)

- A. *That Council receive and note the Heritage Reference Committee Meeting Notes of 20 September 2010.*
- B. *That the pathway between Mona Vale Road and Gowrie Close, St Ives, be named "Monty's Walk".*

394

2A Heydon Avenue, Warrawee - Relocation of a Council Pipe & Extinguishment of an Easement

File: REV0007/10

To consider a request by the applicant of 1 Hampden Avenue, Wahroonga to relocate a Council stormwater pipeline and easement traversing the property.

Resolved:

(Moved: Councillors Malicki/McDonald)

That the matter be deferred for further information on the creation of a new easement and associated conditions.

CARRIED UNANIMOUSLY

395

Extension of Ku-ring-gai Contributions Plan 2010 to Additional Area in Lindfield - Killara - Exhibition

File: S05878

To seek Council's endorsement to exhibit an amendment to Ku-ring-gai Contributions Plan 2010 to extend the catchment area in Lindfield-Killara.

Resolved:

(Moved: Councillors Keays/Szatow)

- A. That the Revised Catchment Map of Lindfield-Killara Town Centre at Attachment 1 be exhibited as a draft amendment to *Ku-ring-gai Contributions Plan 2010* for the statutory period of at least 28 days.
- B. A report be brought back to Council following the exhibition period.

CARRIED UNANIMOUSLY

QUESTIONS WITHOUT NOTICE**396 NM.1 - Proposed Reclassification of Council Land - Village Green Parade, St Ives**

File: S07624/2

Question Without Notice from Councillor T Hall

I ask the General Manager did Council, at its meeting tonight in respect of NM.1 err under Section 372 of the Local Government Act in amending the Motion with a successful motion that in effect negated the original motion?

Answer by the General Manager

Will be happy to look at that and provide advice back to Councillors.

397 Three Dumps of Soil on Land

File: S05834

Question Without Notice from Councillor C Szatow

Three dumps of soil on land adjoining the railway off Stanhope Road and Culworth Avenue, Killara.

A full report on Council's handling of this matter, please?

Answer by the Director Operations

I will take that on notice and report back.

398 Availability of Business Papers to the Public

File: S02499

Question Without Notice from Councillor E Malicki

Are we following the Local Government Act when it comes to the release of Business Papers to the public?

Answer by the General Manager

The Local Government Act says that you must give 3 days notice. My understanding with the relation to the current agenda is that it was available in the Libraries on Wednesday. When it got onto Council's internet site, I'm not sure, but even if it were to be Friday, it would still comply with the 3 business days notice.

The Meeting closed at 10.02pm

The Minutes of the Ordinary Meeting of Council held on 23 November 2010 (Pages 1 - 18) were confirmed as a full and accurate record of proceedings on 7 December 2010.

General Manager

Mayor / Chairperson