

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 24 APRIL 2007

Present: The Mayor, Councillor N Ebbeck (Chairperson) (Wahroonga Ward)
Councillors A Andrew & E Malicki (Comenarra Ward)
Councillors L Bennett & T Hall (St Ives Ward)
Councillor I Cross (Wahroonga Ward)
Councillors M Lane & A Ryan (Gordon Ward)
Councillors M Shelley & J Anderson (Roseville Ward)

Staff Present: General Manager (John McKee)
Director Corporate (John Clark)
Director Development & Regulation (Michael Miocic)
Manager Development Assessment Services (Matthew Prendergast)
Director Operations (Greg Piconi)
Director Strategy (Steven Head)
Manager Urban Planning (Antony Fabbro)
Manager Sustainability & Natural Environments (Peter Davies)
Director Community (Janice Bevan)
Senior Governance Officer (Geoff O'Rourke)
Minutes Secretary (Christina Randall-Smith)

The Meeting commenced at 7.03pm

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 Malicki declared a possible perceived Conflict of Interest in Item GB.1 - Naamaroo Conference Centre, Lot B, Lady Game Drive, Lindfield - Construct 5 New Cabins & 3 Resource Rooms; Rebuild 8 Existing Cabins & Install New Fire Main as she is involved in the Bland Shire Drought Assistance Programme.

ADDRESS THE COUNCIL

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

G Shein
L Lockyer

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:

Councillors Information: **School-based Anti-Graffiti Education Awareness & Prevention Programs** - Memorandum by Director Technical Services dated 10 April 2007 in answer to a Question Without Notice by Councillor Anderson raised at the Ordinary Meeting of Council held on 27 February 2007

Late Item: **Refer GB.15 - Draft Management Plan 2007 to 2011 - Incorporating Budget & Fees & Charges** - Memorandum by Director Corporate dated 23 April 2007 re amended pages 42 & 43 of the Draft Fees & Charges 2007 to 2008, Appendix B.

Memorandums: **Refer GB.6 - 451 Mona Vale Road, St Ives - Lease to Honda Australia Pty Ltd** - Memorandum by Director Corporate dated 24 April 2007 re Letters of Support for Lease to H-A-R-T (Honda Australia Roadcraft Training)

Refer GB.10 - Planning Reform Funding Ku-ring-gai/Hornsby Sub Regional Employment Study - Memorandum by Manager Urban Planning dated 24 April 2007 re amendments to the Officer's Recommendations.

Refer GB.15 - Draft Management Plan 2007 to 2011 - Incorporating Budget & Fees & Charges - Memorandum by Director Strategy dated 19 April 2007 re an amendment to the report.

CONFIRMATION OF MINUTES**107 Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 3 April 2007

Minutes numbered 95 to 106

Resolved:

(Moved: Councillors Hall/Lane)

That Minutes numbered 95 to 106 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

108 **Minutes of Ordinary Meeting of Council**

Files: S02131, S04019

Meeting held 13 March 2007

Memorandum by Senior Governance Officer dated 11 April 2007 in reference to Confirmation of Minute No 65 - St Ives Centre Planning - Response to Council Resolution, 27 February 2007.

Resolved:

(Moved: Councillors Shelley/Bennett)

That Minute No 65 of Ordinary Meeting of Council held 13 March 2007, be confirmed as accurate:

- A. That the documents attached to the memorandum on meeting notes from Director Open Space & Planning dated 13 March be appended to the Minutes of this Council meeting (if legally appropriate).
- B. That future meetings between the St Ives Village Shopping Centre and Council concerning Council land be fully minuted.

CARRIED UNANIMOUSLY

PETITIONS109 **Heritage Listing - Nos 17/19/21/23/25 Richmond Avenue, St Ives - (Nine [9] Signatures)**

File: S04325

The following Petition was presented by Councillor Hall:

"The Owners of the houses in Richmond Avenue that are listed or have been identified for listing on the Ku-ring-gai LEP Heritage List believe that the situation has changed recently with respect to these particular homes. We ask that Council now revisit the status and worthiness of these homes for continued local heritage listing.

It is our fervent view that there is no legitimate reason why Council should continue to ignore the property owners requests to remove these houses from the Local Heritage Register.

In April 2005 all of the homeowners wrote to Council expressing our views on the continued heritage listing of these homes. Even though the letter was sent to a number of Council Officers, the Mayor and Ward Councillors it was never acknowledged.

Since June 2004 there have been a number of decisions and changes that support our argument for removal from the Ku-ring-gai Heritage register. The main points are:

1. In April 2005 Council resolved to take no further action to list 400 Mona Vale Road and 27 Richmond Avenue St Ives located within that precinct for heritage listing under the Local Ku-ring-gai Planning scheme ordinance.
2. It is our understanding that 23 Richmond Avenue is still (after 10 years) not gazetted for inclusion on the local heritage register.
3. In June 2004 the Heritage Council of New South Wales resolved together with other resolutions that: "In accordance with section 33 (1)(d) of the Heritage Act, 1977 advises the Minister that she not proceed with listing the "Pettit & Sevitt Exhibition Centre N9 1 Precinct" on the State Heritage Register".
4. Heritage NSW considers that the heritage significance of these homes is essentially 'the group'. Their view is that it is "all or nothing". Critical to the continued inclusion of these homes on the State Heritage Register is that all homes from 400 Mona Vale Road through to 29 Richmond Avenue remain part of the group.
5. These houses are looking 'tired' and in some cases in need of major repairs and maintenance. They are surrounded by new developments and in the near future will have modern homes intruding between them. This will highlight the overall poor standard of quality the heritage listed houses represent.

The following home owners now ask Ku-ring-gai Council to resolve to delist Nos 17, 19,21, and 25 Richmond Avenue St Ives from the Ku-ring-gai Local Environmental Plan Heritage list:

PROPERTY

17 Richmond Avenue
19 Richmond Avenue
21 Richmond Avenue
23 Richmond Avenue
25 Richmond Avenue

OWNERS

Mr L Lockyer & Mrs S Lockyer
Mrs Galina Shein
Mr H Salahifar & Mrs S Salahifar
Mr R Hubbard & Dr S Totman
Mr A Wolman & Mrs G Wolman"

Resolved:

(Moved: Councillors Hall/Ryan)

That the Petition be received and a report from the appropriate officer be referred to Council at the earliest opportunity.

CARRIED UNANIMOUSLY

110 **18 Bromborough Road, Roseville - Petition for Refusal to Grant Permission to the Proposed Two-Storey Dual Occupancy Development - (Forty-Nine [49] Signatures)**

File: DA0215/07

The following Petition was presented by Councillor Shelley:

"The proposed development has significant non-compliances with the governing planning controls, will significantly detract from the character of the locality and will have significant adverse amenity impacts on adjoining properties; the deficiencies in the proposed development could readily have been minimised/mitigated through more sensitive design.

The proposed development is a poor design response to the circumstances of the site and having regard to:

- * the significant departures from Councils planning controls, and
- * the failure of the development to satisfy the provisions of S79(c) of the EPA Act 1979, and
- * the Planning Principles established by the Land and Environment Court of NSW (and in particular *Pafburn V North Sydney Council*).

We, the undersigned consider that the only reasonable town planning conclusion is that **the proposed development is inappropriate and should be refused.**"

Resolved:

(Moved: Councillors Shelley/Anderson)

That the Petition be received and referred to the appropriate officer of Council for attention.

CARRIED UNANIMOUSLY

GENERAL BUSINESS

111 **Naamaroo Conference Centre, Lot B, Lady Game Drive, Lindfield - Construct 5 New Cabins & 3 Resource Rooms; Rebuild 8 Existing Cabins & Install New Fire Main**

File: DA0785/06

Ward: Roseville

Applicant: KDG Architects

Owner: The Uniting Church in Australia Property Trust (NSW)

To determine development application No. 785/06, which seeks consent to construct 5 new cabins and 3 resource rooms, rebuild 8 existing cabins and install a new fire main at the Naamaroo Conference Centre.

Resolved:

(Moved: Councillors Shelley/Anderson)

- A. That consideration of DA0785/06 at the Naamaroo Conference Centre, Lot B, Lady game Drive, Lindfield be deferred pending a site inspection.
- B. That the applicant be requested to have the location of the proposed development pegged out on site for the inspection.

For the Resolution: Councillors Andrew, Bennett, Hall, Lane, Ryan, Shelley & Anderson

Against the Resolution: The Mayor, Councillor N Ebbeck, Councillors Cross & Malicki

112 **21 Archbold Road, Roseville - Conversion of a Dwelling House into a Child Care Centre**

File: DA0859/06

Ward: Roseville

Applicant: H Azoulay

Owners: M & D Azoulay

To determine development application No. 859/06 for alterations and additions to an existing dwelling house and its change of use to a child care centre catering for 24 children, with 6 on-site car parking spaces.

Resolved:

(Moved: Councillors Shelley/Anderson)

- A. That consideration of DA0859/06 at 21 Archbold Road, Roseville be deferred pending a site inspection.
- B. That the applicant be requested to have the location of the proposed development pegged out on site for the inspection.

CARRIED UNANIMOUSLY

113 **Council Meeting Cycle for May 2007**

File: S02355

To consider amending the Council Meeting Cycle for May 2007.

Resolved:

(Moved: Councillors Shelley/Ryan)

That Council's Meeting Cycle for May 2007 remain as follows:

| | |
|-------------|-----------------------------|
| 8 May 2007 | Ordinary Meeting of Council |
| 22 May 2007 | Ordinary Meeting of Council |

CARRIED UNANIMOUSLY

114 **Northern Sydney Aboriginal Social Plan 2007 to 2011**

File: S02581

To inform Council of community feedback on the draft Northern Sydney Aboriginal Social Plan 2007-2011, following the public exhibition period.

Resolved:

(Moved: Councillors Shelley/Cross)

- A. That the draft The Northern Sydney Aboriginal Social Plan 2007-2011 be adopted by Council.
- B. That Council continue to participate in the regional approach to social planning for the Aboriginal target group.
- C. That in accordance with Local Government (General) Amendment (Community and Social Plans) Regulation 1998, Council jointly submit the Northern Sydney Aboriginal Social Plan 2007-2011 to the Department of Local Government.

CARRIED UNANIMOUSLY

115 **Ku-ring-gai Access Advisory Committee**

File: S02116

To provide Council with the Minutes of the Ku-ring-gai Access Advisory Committee of 8 February 2007.

Resolved:

(Moved: Councillors Shelley/Lane)

That the Minutes of the Ku-ring-gai Access Advisory Committee of 8 February 2007 be received and noted.

CARRIED UNANIMOUSLY

116 **Analysis of Land & Environment Court Costs - 3rd Quarter, 2006/2007**

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File: S02466

To provide information in relation to proceedings to which Council is a party in the Land & Environment Court for the quarter ended 31 March 2007, including appeals commenced, costs incurred by Council and outcomes.

Resolved:

(Moved: Councillors Shelley/Ryan)

That the analysis of Land & Environment Court costs for the third quarter of the financial year 2006/2007 be received and noted.

CARRIED UNANIMOUSLY

117 **Investment & Loan Liability as at 31 March 2007**

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File: S02722

To present to Council investment allocations, returns on investments and details of loan liabilities for March 2007.

Resolved:

(Moved: Councillors Shelley/Ryan)

That the summary of investments and loan liabilities for March 2007 be received and noted.

*For the Resolution: The Mayor, Councillor N Ebbeck, Councillors
Andrew, Cross, Hall, Lane, Malicki, Ryan, Shelley
and Anderson*

Against the Resolution: Councillor Bennett

118 **Bushland, Catchments & Natural Areas Reference Group -Minutes of 2 April 2007**

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File: S03448

To bring to the attention of Council the proceedings from the Bushland, Catchments and Natural Areas Reference Group meeting held on Monday, 2 April 2007.

Resolved:

(Moved: Councillors Shelley/Andrew)

That the Minutes of the Bushland, Catchments & Natural Areas Reference Group Meeting of Monday, 2 April 2007 and attachments be received and noted.

CARRIED UNANIMOUSLY

119 **Heritage Advisory Committee –Minutes of 7 November 2006**

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File: S03816

For Council to receive and note the minutes from the Heritage Advisory Committee Meeting held on 7 November 2006.

Resolved:

(Moved: Councillors Shelley/Anderson)

That Council receive and note the Minutes of the Heritage Advisory Committee Meeting held on 7 November 2006.

CARRIED UNANIMOUSLY

120 **Draft Graffiti Policy**

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File: S04840

To provide Council with a draft Graffiti Policy for consideration and exhibition.

Resolved:

(Moved: Councillors Shelley/Lane)

That Council places the draft Graffiti Policy on public exhibition for 28 days with a further report to be brought back to Council following the exhibition period.

CARRIED UNANIMOUSLY

121 **Renaming the AGAL Reserve Site**

File: S04078

To seek Council's approval to rename the AGAL Reserve site as Harold Nipper Hammond Reserve.

Resolved:

(Moved: Councillors Shelley/Lane)

That Council supports the decision to rename the AGAL Reserve site as Harold Nipper Hammond Reserve and formalise the process with the Geographical Names Board.

CARRIED UNANIMOUSLY

122 **451 Mona Vale Road, St Ives - Lease to Honda Australia Pty Ltd**

File: P52792

To recommend the granting of a further sub-lease of lots 2844 and 2845 DP 822242 (AKA 451 Mona Vale Rd, St Ives) to Honda Australia Pty Ltd, for five (5) years with a five (5) year option.

Resolved:

(Moved: Councillors Hall/Bennett)

- A. That a further five year term with a five year option to the sub-lease of lots 2844 and 2845 DP 822242 Mona Vale Road be granted to Honda Australia Pty Ltd for the operation of a road safety and training facility effective 19 August 2008, and subject to:
 - i. consent of the Department of Lands
 - ii. a review of commercial terms and conditions of the new sub-lease
- B. That the Mayor and General Manager be authorised to sign the sub-lease documentation.
- C. That the Common Seal of Council be affixed to all necessary documents associated with the lease renewal.

*For the Resolution: The Mayor, Councillor N Ebbeck, Councillors
Andrew, Bennett, Cross, Hall, Lane, Ryan, Shelley
and Anderson*

Against the Resolution: Councillor Malicki

123 **Planning Reform Funding Ku-ring-gai/Hornsby Sub Regional Employment Study**

File: S02315

To seek endorsement of draft Memorandum of Understanding (MOU) between Council and the Department of Planning for funding to prepare a Sub-regional Employment Study.

Resolved:

(Moved: Councillors Bennett/Shelley)

- A. That Council endorse the draft Planning Reform Fund Memorandum of Understanding for the Ku-ring-gai & Hornsby sub regional employment study and as amended by the following:
 - i. That the Mayor of Ku-ring-gai be listed on the project working party and that the Mayor of Hornsby Shire also be invited to be represented on the project working party.
- B. That prior to policy decisions or sign off on the key stages of the study, the matter be reported to the planning committee for consideration and formal reports to Council where appropriate.
- C. That the Consultant team include a social planner to provide demographic and occupational analysis and other research as appropriate to inform the employment plan.
- D. That the General Manager be delegated authority to sign the Memorandum of Understanding subject to any minor amendments requested by Hornsby Shire Council or the Department of Planning.
- E. That a copy of the final Memorandum of Understanding be circulated too all Councillors.

For the Resolution: The Mayor, Councillor N Ebbeck, Councillors Andrew, Cross, Hall, Lane, Malicki, Ryan, Shelley and Anderson

Against the Resolution: Councillor Bennett

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

(Moved: Councillors Hall/Ryan)

- A. *That Council endorse the draft Memorandum of Understanding and project plans attached.*

- B. *That the General Manager be delegated authority to sign the Memorandum of Understanding subject to any minor amendments requested by Hornsby Shire Council or the Department of Planning.*
- C. *That a copy of the final Memorandum of Understanding be circulated to all Councillors.*

Councillor Shelley departed

124

Comprehensive Local Environmental Plan & Development Control Plan for Ku-ring-gai

File: S04541

To provide information on State planning requirements for the Comprehensive Local Environmental Plan process and to seek agreement on the process for preparing a Comprehensive Local Environmental Plan (LEP) and associated Development Control Plan (DCP) as a response to State Government requirements.

Resolved:

(Moved: Councillors Ryan/Lane)

- A. That Council adopt the timelines and method for preparing the comprehensive Local Environmental Plan and Development Control Plan.
- B. That Council resolve to prepare a new local environmental plan under Section 54 of the Environmental Planning and Assessment Act 1979 and a new comprehensive Development Control Plan consistent with the local environmental plan.
- C. That a report be brought back to Council following the receipt of formal advice from the Local Environmental Plan Review Panel and outlining in further detail the project plan and consultation strategy.
- D. Add under Point 1 in the finalized Local Environmental Study (LES) in attachment 2, page 519 of the Officer's report, the following words: "threatened species and environmentally sensitive areas".
- E. Proposals for interface zones be identified and reported to Council as part of the initial phase of the comprehensive LEP and be finalized by June 2008.

For the Resolution: The Mayor, Councillor N Ebbeck, Councillors Andrew, Cross, Hall, Lane & Ryan

Against the Resolution: Councillors Bennett, Malicki & Anderson

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

(Moved: Councillors Bennett/Malicki)

- A. *That Council adopt the timelines and method for preparing the comprehensive Local Environmental Plan and Development Control Plan.*
- B. *That Council resolve to prepare a new local environmental plan under Section 54 of the Environmental Planning and Assessment Act 1979 and a new comprehensive Development Control Plan consistent with the local environmental plan.*
- C. *That a report be brought back to Council following the receipt of formal advice from the Local Environmental Plan Review Panel and outlining in further detail the project plan and consultation strategy.*
- D. *Add under Point 1 in the finalized Local Environmental Study (LES) in attachment 2, page 519 of the Officer's report, the following words: "threatened species and environmentally sensitive areas".*

PERSONAL EXPLANATION

Councillor Bennett advised that her explanation related to the point made about the reference to the date in the last Motion.

The point being that no decisions would be made on the Comprehensive LEP by this Council other than the setting-up of a process. The point was not about anybody's electability.

125

Draft Management Plan 2007 to 2011 - incorporating Budget & Fees & Charges

File: S05708

To place Council's 2007-2011 Draft Management Plan, incorporating the Budget & Fees & Charges for 2007-2008 on public exhibition.

Resolved:

(Moved: Councillors Malicki/Cross)

- A. That Council adopt the Draft Management Plan 2007-2011 as amended, incorporating the Budget & Fees & Charges for 2007/08 for the purpose of public exhibition.
- B. That the Draft Management Plan, Budget & Fees & Charges be placed on public exhibition for 28 days commencing 4 May 2007.
- C. That an advertisement be placed in the 'North Shore Times' advising public exhibition details.

- D. That following public exhibition, a further report be submitted to Council for adoption of the 2007-2011 Management Plan, Budget & Fees & Charges.
- E. That the Depot Relocation budget be allocated over the 2007/8 and 2008/9 years.

*For the Resolution: The Mayor, Councillor N Ebbeck, Councillors
Andrew, Cross, Hall, Lane, Malicki, Ryan &
Anderson*

Against the Resolution: Councillor Bennett

126 **Leave of Absence**

File: S02194

Councillor Anderson (business commitments) tendered an apology for non-attendance on 8 May 2007 and requested leave of absence.

Resolved:

(Moved: Councillors Anderson/Lane)

That Councillor Anderson be granted leave of absence for Ordinary Meeting of Council to be held on 8 May 2007.

CARRIED UNANIMOUSLY

QUESTIONS WITHOUT NOTICE

127 **Interface Zonings in Ku-ring-gai**

File: S04048

Question Without Notice from Councillor E Malicki

Were any previous Councils' responsible for the lack of interface zonings in Ku-ring-gai or were interface zonings actually included in the Housing Strategy and removed by the Department of Planning?

Answer by Manager Urban Planning

In relation to the previous planning that was done under LEP194, there was the intention of having an interface through the different classifications of the zones 2(d1), 2(d2) and 2(d3). These were subsequently changed by the Minister when the plan went on exhibition.

128 Interface Zonings

File: S04048

Question Without Notice from Councillor E Malicki

At future meetings, can any reference to recalcitrance of a previous Council with regard to interface zonings be dealt with appropriately by the Chair please?

Answer by Mayor

Answer to your question is, Yes.

129 Living in Ku-ring-gai

File: S04145

Question Without Notice from Councillor A Ryan

How long does someone have to live in KMC to know what is going on?

Answer by Councillor Malicki through the Mayor

If you are paying attention & reading papers & coming to Council meetings, I suggest then you might know after a short period of time. If you are doing none of the above, I'd say that it could take you a very long time.

130 Councillor Ryan's Heritage

File: S04145

Question Without Notice from Councillor A Ryan

Can the Mayor ensure that Councillor Malicki ceases referring to my heritage at both formal and informal meetings of this Council?

Answer by the Mayor

I'll take that on notice.

PERSONAL EXPLANATION

Councillor Malicki wanted to make it very clear that she did not at any stage deal with Councillor Ryan's heritage which Councillor Malicki assumes means her having grown up in another country. That's what heritage means to Councillor Malicki.

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

The Director Development & Regulation will advise Councillors of the time and date to view the following properties:

Naamaroo Conference Centre, Lot B, Lady Game Drive, Lindfield
21 Archbold Road, Roseville

The Meeting closed at 8.55pm

The Minutes of the Ordinary Meeting of Council held on 24 April 2007 (Pages 1 - 16) were confirmed as a full and accurate record of proceedings on 8 May 2007.

General Manager

Mayor / Chairperson