

## MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 25 MAY 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)  
Acting Director Strategy & Environment (Antony Fabbro)  
Director Community (Janice Bevan)  
Internal Ombudsman (Michael Langereis)  
Senior Governance Officer (Geoff O'Rourke)  
Mayor's PA (Sigrid Banzer)

*The Meeting commenced at 7.01pm*

*The Mayor offered the Prayer*

### APOLOGIES

File: S02194

**NOTE:** The Director Strategy & Environment, Andrew Watson tendered an apology for non-attendance.

### 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.

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**CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING**

File: S02499

**Resolved:**

(Moved: Councillors Keays/Szatow)

That in accordance with the provisions of Section 10 of the Local Government Act 1993, all officers' reports and/or attachments be released to the press and public, with the exception of:

**Refer GB.8: Acceptance of Tender T19/2010 St Ives Vegetation Landfill Leachate Reuse & Water Management Project**

Attachment A - Tender Evaluation Report

Confidential Memorandum by Manager Corporate Planning & Sustainability dated 20 May 2010 advising of amended recommendations to the report along with supplementary background information plus the following attachments:

Attachment Ci: Kingsway Financial Tender Assessment Report No 16876 for H & H Consulting Engineers Pty Ltd

Attachment Cii: Letter from Henry & Hymas dated 13 May 2010

Attachment Ciii: Letter of Support from the Regional Manager, Sydney of the Department of Lands

**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 Item: Refer Minute No 127 of Ordinary Meeting of Council held 11 May 2010 - Business Without Notice of 1574 to 1578 Pacific Highway, Wahroonga - Seniors Living Development DA0652/07 - Land & Environment Court Proceedings No 10352 of 2008 - The Council at De Stoop**

Memorandum by Senior Governance Officer dated 25 May 2010 in reference to an addition to the Minute.

**Refer GB.14 - Expression of Interest - EOI/04/2010 - Economic Development Strategy** - Report by Director Corporate dated 20 May 2010

**Confidential  
Late Agenda  
Information:**

**Refer GB.8 - Acceptance of Tender T19/2010 St Ives Vegetation Landfill Leachate Reuse and Water Management Project**

Confidential Memorandum by Manager Corporate Planning & Sustainability dated 20 May 2010 advising of amended recommendations to the report along with supplementary background information plus Confidential Attachments Ci, Cii & Ciii.

**Councillors  
Information:**

**Council Resolution, Minute No 313/09 - Confirmation of Voting** - Memorandum by the General Manager dated 14 May 2010 in answer to a Question Without Notice raised by Councillor Tony Hall at the Ordinary Meeting of Council held 11 May 2010.

## **CONFIRMATION OF MINUTES**

134 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 11 May 2010  
Minutes numbered 115 to 132

**Resolved:**

(Moved: Councillors Hall/Szatow)

That Minutes numbered 115 to 132 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting except for Minute No 127 which should include the following statement:

Councillor Hall raised the following matter concerning 1574 to 1578 Pacific Highway, Wahroonga as urgent business due to the lack of time to lodge an appeal on the matter.

**CARRIED UNANIMOUSLY**

**GENERAL BUSINESS**135 **Mayor & Councillor Fees**

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File: S03158/2

To determine the Mayor and Councillor fees payable from 1 July 2010.

**Resolved:**

(Moved: Councillors Keays/Malicki)

That, from 1 July 2010, the Councillor fee be set at \$15,970 and the Mayoral fee be set at \$34,860.

**CARRIED UNANIMOUSLY**

136 **Budget Review 2009 to 2010 - 3rd Quarter as at 31 March 2010**

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File: FY00315

To present to Council the quarterly financial review for 3rd quarter ended 31 March 2010.

**Resolved:**

(Moved: Councillors Keays/Duncombe)

- A. That Council adopt the budget adjustments contained in the report.
- B. That the Restricted Assets Report Forecast to 30 June 2010 as at 31 March 2010, as shown in Attachment C, be noted.
- C. That the reserve movements contained in the report be approved.

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

*Against the Resolution:              Councillor Hall*

137 **Investment Report as at 30 April 2010**

File: S04887

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

**Resolved:**

(Moved: Councillors Keays/Duncombe)

- A. That the summary of investments and performance for April 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 & McDonald*

*Against the Resolution:              Councillor Hall*

138 **Acceptance of Tender T19/2010 St Ives Vegetation Landfill Leachate Reuse & Water Management Project**

File: S08108

To report on the results of the public tender for the construction of a leachate treatment and reuse system at the decommissioned St Ives vegetation landfill site, and to seek Council's approval to accept the preferred tender subject to passing a financial assessment.

**Resolved:**

(Moved: Councillors Keays/Holland)

- A. That Council accept the tender from Innaco Pty Ltd subject to a Performance Guarantee by Henry and Hymas Consulting Engineers.
- B. That the performance guarantee cover any loss to Council which might arise if the tenderer defaults on the contract over both the construction and maintenance periods, and independent legal advice shall be obtained to verify this.

- C. That the execution of all documents relating to the tender be delegated to the Mayor and General Manager.

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

*Against the Resolution:              Councillors Anderson & Hall*

139

### **Hornsby/Ku-ring-gai Bush Fire Risk Management Plan**

File: S06833

For Council to endorse the Hornsby/Ku-ring-gai Bush Fire Risk Management Plan (2010) as prepared by the Hornsby/Ku-ring-gai Bush Fire Co-ordinating Committee (BFCC).

#### **Resolved:**

(Moved: Councillors Keays/Szatow)

That Council endorse the Hornsby/Ku-ring-gai Bush Fire Risk Management Plan (2010) as adopted by the Hornsby/Ku-ring-gai Bush Fire Management Committee and that this Plan inform future operational and capital works regarding bush fire management across the Ku-ring-gai Local Government Area.

**CARRIED UNANIMOUSLY**

140

### **Planning Committee Meeting - Minutes of 12 May 2010**

File: S07629

To present to Council for adoption the Minutes of the Planning Committee Meeting held on 12 May 2010.

#### **Resolved:**

(Moved: Councillors Keays/Szatow)

- A. That a Planning Proposal based on the report to the Ku-ring-gai Planning Committee 12 May 2010 for Ku-ring-gai's Principal Local Environmental Plan be prepared for consideration by Council and submission to the Department of Planning.

- B. That Council undertake the design and construction of neighbourhood centre improvements for Kendall Street, West Pymble with a completion date of September 2011.
- C. That Council undertake the design and construction neighbourhood centre improvements for Princes Street, Turramurra with a completion date of August 2011.
- D. That the neighbourhood centre improvements works utilise the current funding identified in the draft *Ku-ring-gai Delivery Program and Operational Plan 2010/2014*, once it is ratified by full Council.
- E. That staff provide a further report detailing the neighbourhood centre improvements three priority projects for the years 2012-2014 based on the proposed neighbourhood centres 5 year upgrade program.

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

*Against the Resolution:*              *Councillor Hall*

141

### **Management Plan 2009 to 2012 - 3rd Quarter Review**

File: FY00382

To report to Council the progress over the period January to March 2010 against the 2009 to 2012 Management Plan.

#### **Resolved:**

(Moved: Councillors Keays/McDonald)

That the report on the progress of the Key Performance Indicators contained in the 2009 to 2012 Management Plan for the 3rd quarter of the Plan be received and noted.

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

*Against the Resolution:*              *Councillor Hall*

142 **Disposal of Excess Leachate at Former Landfill Site St Ives**

File: S08105

Ward: St Ives

To consider the tenders received for the removal and disposal of excess leachate from the former landfill site at St Ives.

**Resolved:**

(Moved: Councillors Keays/Malicki)

- A. That the tender from Transpacific Industries Pty Ltd be accepted as the primary supplier for the removal and disposal of excess leachate from the former landfill site at St Ives.
- B. That subject to satisfactory demonstration of insurance coverage, Staples Waste Pty Ltd be awarded a Contract as the second service provider and to perform this service based on their schedule of rates set out in their tender should Transpacific Industries Pty Ltd be unable to respond to Ku-ring-gai's call-out.
- C. That the remaining tenderers be advised of Council's decision.

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

*Against the Resolution:              Councillor Hall*

143 **Ku-ring-gai Council Internal Ombudsman Guidelines**

File: S06339

To establish Ku-ring-gai Council's Internal Ombudsman Guidelines.

**Resolved:**

(Moved: Councillors Keays/McDonald)

- 1 That Council adopt Guidelines for the Office of the Internal Ombudsman in accordance with the document titled "Ku-ring-gai Council Internal Ombudsman Guidelines".
- 2 That once adopted, that the Internal Ombudsman operate within such Guidelines.



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

*Against the Resolution: Councillor Hall*

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

*(Moved: Councillors Hall/Hardwick)*

*That Council defer the matter to consider a complaint management policy of which the position of Internal Ombudsman may be a part.*

## **MOTION OF DISSENT**

During Debate on the above matter, Councillor Hall moved a Motion of Dissent against the Mayor's ruling to speak further on the matter.

### **When put to the Vote the Motion of Dissent was LOST**

*For the Motion of Dissent: Councillors Keays, Szatow, Anderson, Hall & Hardwick*

*Against the Motion of Dissent: The Mayor, Councillor I Cross, Councillors Holland, Malicki, Duncombe & McDonald*

The Voting being equal  
the Mayor exercised his casting vote  
AGAINST the Motion

## 144 **Internal Audit Charter & Audit Committee Charter for Ku-ring-gai Council**

File: S06472

The report is to recommend to Council the adoption of the Internal Audit Charter and the Audit Committee Charter.

*A Motion moved by Councillors Malicki & Anderson  
that voting on the Item be in  
seriatum was CARRIED*

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

*Against the Motion: Councillor Hall*

**Resolved:**

(Moved: Councillors Anderson/Szatow)

1. That Council adopt the Ku-ring-gai Council Internal Audit Charter.

**CARRIED UNANIMOUSLY**

2. That Council adopt the Audit Committee Charter subject to the following amendments:

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

*Against the Resolution:*              *Councillor McDonald*

A.    3.4.    **Observers and Notification of Meetings**

All Councillors may attend as observers and are to receive appropriate notification of scheduled meetings.

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

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

B.    10.    **Changes to the Charter**

The Audit Committee will recommend any changes to this Audit Committee Charter to Council for its consideration.

**CARRIED UNANIMOUSLY**

C.    4.8    **Selection of Members**

That the Committee is to recommend independent Committee members to Council for consideration.

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

*Against the Resolution:*              *Councillor Hall*

E. 4.9 **Term of Office**

That Councillors be appointed by Council for a 2-year term after which they would be eligible for extension or re-election.

**CARRIED UNANIMOUSLY**

*Part 'D' of the Motion when put to the Vote, was LOST. The Lost Part 'D' of the Motion was:*

D. 9.2 **Attendance at Meetings and Quorums**

*That meetings are to be held in person.*

145 **Analysis of Land & Environment Court Costs - 3rd Quarter, 2009 to 2010**

File: S02466

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

**Resolved:**

(Moved: Councillors Keays/Malicki)

That the analysis of Land & Environment Court costs for the third quarter ended March 2010 be received and noted.

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

*Against the Resolution:              Councillor Hall*

146 **West Pymble Pool Re-Development - Guiding Principles & Calling Public Tenders for Management Services**

File: S04066

To seek Council's endorsement of the guiding principles for the design and operation of the new West Pymble aquatic facility and approval to call tenders for the operation of the current facility for the 2010/11 swim season and new facility following construction.

**Resolved:**

(Moved: Councillors Malicki/Holland)

- A. That Council endorse the following Guiding Principles for the Design and Operation of the West Pymble Pool:
1. Financial sustainability – but not at the expense of community access and benefit;
  2. Community access to at least part of the pool space at all operating hours – fair community access at all times; Council endeavour to keep the pool open during the summer season during construction, pending financial cost assessment post receipt of tenders;
  3. Cater for ageing demographic with appropriate programs;
  4. High standards of facility maintenance, presentation and hygiene;
  5. Environmental sustainability – incentives for the operator keep up to date and to operate in an environmentally sensitive way;
  6. Sinking fund for ongoing investment in the facility;
  7. Safety of staff and patrons through good design and surveillance of facilities; and
  8. Design flexibility/masterplan to allow for future demand of the facility.
- B. That Council approve the public notification of the proposal to enter into a management contract for a period of up to 20 years for the West Pymble Pool in accordance with s47 of the *NSW Local Government Act*.
- C. That Council approve the calling of tenders for the management of the West Pymble Pool in parallel with the public notification.
- D. A report be brought back to Council to consider the outcomes of the tender process.

**CARRIED UNANIMOUSLY**

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

*(Moved: Councillors Hall/Hardwick)*

- A. *That Council endorse the following Guiding Principles for the Design and Operation of the West Pymble Pool:*

- a) *Financial sustainability – but not at the expense of community access and benefit;*
  - b) *Community access to at least part of the pool space at all operating hours – fair community access at all times; Council endeavour to keep the pool open during the summer season during construction, pending financial cost assessment post receipt of tenders;*
  - c) *Cater for ageing demographic with appropriate programs;*
  - d) *High standards of facility maintenance, presentation and hygiene;*
  - e) *Environmental sustainability – incentives for the operator keep up to date and to operate in an environmentally sensitive way;*
  - f) *Sinking fund for ongoing investment in the facility;*
  - g) *Safety of staff and patrons through good design and surveillance of facilities; and*
  - h) *Design flexibility/masterplan to allow for future demand of the facility.*
- B. *That Council approve the public notification of the proposal to enter into a management contract for a period of up to 20 years for the West Pymble Pool in accordance with s47 of the NSW Local Government Act.*
- C. *That the Council notify the development for public notification prior to the issue of calling of tenders*
- D. *That a report be brought back to Council to consider the outcomes of the tender process.*

147 **Healthy Cities Conference - 12 to 13 July 2010**

File: S08187

To advise Council of the Healthy Cities Conference 2010.

**Resolved:**

(Moved: Councillors Duncombe/McDonald)

That any interested Councillors advise the General Manager by Friday 4 June 2010 if they wish to attend the conference.

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

*Against the Resolution:              Councillor Hall*

148 **Expression of Interest - EOI/04/2010 - Economic Development Strategy**

File: S08182

For Council to consider the members of an evaluation panel to consider the expressions of interest for the Economic Development Strategy.

**Resolved:**

(Moved: Councillors Duncombe/Anderson)

That Council nominates three Councillors to represent the elected body of Council together with the senior members of staff on the Assessment Review Panel for the establishment of an Economic Development Unit. The Councillors being Councillors Duncombe, Keays & Anderson.

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

*Against the Resolution:              Councillors Hall & Hardwick*

**MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**149 **Expressions of Interest - Old School Building - 799 Pacific Highway, Gordon**

File: S07857

**Notice of Rescission from Councillors Elise Keays, Cheryl Szatow & Jennifer Anderson dated 11 May 2010**

We, the undersigned Councillors hereby seek to rescind the following Resolution of Council at its meeting of 11 May 2010 being -

Minute No 123:

- "A. That the Ku-ring-gai Youth Services (KCYS) be relocated to the existing Gordon Library meeting rooms for a trial period of 6 months.
- B. That three new community meeting rooms be established in the former Youth Services and Training Room area for a trial period of 6 months.
- C. That the new arrangement in A. and B. above be reviewed by Council Staff after an operational period of 6 months and Council be advised of recommendations from the review for the future use of the facility."

**Resolved:**

(Moved: Councillors Anderson/Szatow)

- A. That the above Notice of Rescission as printed be adopted.

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

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

- B. 1. That two new community meeting rooms be established in the former training rooms, in addition to the existing two Gordon Library meeting rooms, to make a total of four meeting rooms available for community hire, for a trial period of 6 months and reported back to Council following the trial
2. That Ku-ring-gai Council Youth Services remain in its current space
3. That a report be provided to Council on options to alleviate study space shortages in the Gordon Library and on ways in which Council can expand upon and on how to improve facilities within the current community rooms within the Old School Building

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

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

*Part B of the Resolution was subject to an Amendment which was LOST. The Lost Amendment was:*

*(Moved: Councillors Malicki/Duncombe)*

- A. *That as Youth Services won the EOI they be allocated three rooms at the bottom of the Old School Building for a trial of 6 months and that two of these rooms be available for meetings for other user groups when not in use for Youth Services.*
- B. *That a report be provided to Council on options to alleviate study space shortages in the Gordon Library and on ways in which Council can expand upon and on how to improve facilities within the current community rooms within the Old School Building.*

150 **NSW Companion Card**

File: S02119

**Notice of Motion from Councillor J Anderson dated 3 May 2010**

I move that:

- "1. Council staff investigate the possibility of adopting the NSW Companion Card program for all Ku-ring-gai Council controlled venues and events.
2. Council staff discuss with all current licence holders and lessees of Council facilities the possibility of introducing the NSW Companion Card program, where appropriate.
3. All lessees of Council venues (including West Pymble Pool and Marian Street Theatre), at the time of entering into agreements with Council, consider adopting the NSW Companion Card program, if applicable, as part of the lease agreement.
4. A report be brought back to Council for consideration following investigations."

**Resolved:**

(Moved: Councillors Anderson/Keays)

That the above Notice of Motion as printed be adopted.

**CARRIED UNANIMOUSLY**

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

Councillor Jennifer Anderson informed Council of the importance of "Peroomba", 9 to 15 Harrington Avenue, Warrawee and that it is understood that the property is under threat of demolition.

*The following item was dealt with after a Motion  
moved by Councillors Anderson & Keays  
to have the matter dealt with at the meeting  
was CARRIED UNANIMOUSLY and  
the Mayor ruled Urgency*



151 **“Peroomba” 9 to 15 Harrington Avenue, Warrawee**

File: CY00294

**Notice of Motion from Councillor J Anderson dated 25 May 2010**

Peroomba” 9 to 15 Harrington Avenue, Warrawee (Lots 2, 3, 4, 5, DP 16650) has been assessed as an item of State heritage significance by the consultants Clive Lucas Stapleton and Partners.

I move:

- “1. That Council prepare and submit a planning proposal to the Department of Planning to amend Schedule 7 of the KPSO to include “Peroomba” at 9 to 15 Harrington Avenue, Warrawee (Lots 2, 3, 4, 5, DP 16650) as an item of heritage significance.
2. The Planning Proposal be placed on public exhibition in accordance with the requirements of any gateway determination issued by Department of Planning.
3. That Council prepare a detailed comparative analysis to include in the heritage assessment in support of the local and state heritage nomination of “Peroomba” at 9 to 15 Harrington Avenue, Warrawee (Lots 2, 3, 4, 5, DP 16650).
4. That Council request the NSW Department of Planning to place an Interim Heritage Order on “Peroomba” as a place of local heritage significance and potential state significance.
5. A report be brought back to Council at the conclusion of the exhibition period.”

**Councillor Malicki departed during discussion**

**Resolved:**

(Moved: Councillors Anderson/Szatow)

That the above Notice of Motion as printed be adopted.

**CARRIED UNANIMOUSLY by those present**

**QUESTIONS WITHOUT NOTICE**152 **Complaints Management Policy**

File: S07012

Question Without Notice from Councillor T Hall

Would the General Manager circulate to Councillors a copy of this Council's Complaints Management Policy in Customer Service, as referred by the Internal Ombudsman in the debate of GB Item 1 tonight please and whether that Policy makes specific reference to the position of Internal Ombudsman?

**Answer by the General Manager**

Happy to distribute that Policy.

153 **Internal Audit**

Files: S04265, S06954, S08108

Question Without Notice from Councillor T Hall

I refer the General Manager to two matters requiring internal audit -

1. A possible financial loss in the Gordon Golf Course Sewer Mining Tender; and
2. The lack of a formal tender for the removal of leachate from the former St Ives Vegetation Tip site, 435 Mona Vale Road, St Ives in 2008/2009 at a total cost of \$275,000.

Would the General Manager seek the Internal Auditor's advice in writing please to investigate these issues and report to Council?

**Answer by the General Manager**

I will.

*The Meeting closed at 10.33pm*

The Minutes of the Ordinary Meeting of Council held on 25 May 2010 (Pages 1 - 18) were confirmed as a full and accurate record of proceedings on 8 June 2010.

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General Manager

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Mayor / Chairperson