

## MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 27 MAY 2008

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)  
Councillor J Anderson (Roseville Ward)

Staff Present: General Manager (John McKee)  
Director Corporate (John Clark)  
Director Development & Regulation (Michael Miodic)  
Director Operations (Greg Piconi)  
Director Strategy (Andrew Watson)  
Infrastructure Co-ordinator (Kate Paterson)  
Director Community (Janice Bevan)  
Governance & Records Consultant (David Linnert)  
Minutes Secretary (Christina Randall-Smith)

*The Meeting commenced at 7.03pm*

*The Mayor offered the Prayer*

### 155 APOLOGIES

File: S02194

Councillor M Shelley tendered an apology for non-attendance and requested leave of absence.

#### **Resolved:**

(Moved: Councillors Ryan/Lane)

That the apology by Councillor M Shelley for non-attendance be accepted and leave of absence be granted.

**CARRIED UNANIMOUSLY**

### **DECLARATIONS OF INTEREST**

The Mayor adverted to the necessity for Councillors and staff to declare a Pecuniary Interest/Conflict of Interest in any item on the Business Paper.

No Interest was declared.

Councillor T Hall gave an explanation in respect of NM.1 of 13 May 2008 - Part U of Minute No 92 of Ordinary Meeting of Council held 8 April 2008, Notice of Rescission from Councillors A Ryan, T Hall and J Anderson dated 29 April 2008.

156

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

File: S02499

### **Resolved:**

(Moved: Mayor, Councillor Ebbeck/Councillor Ryan)

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 15, Tender for Cleaning Services, Attachment 2; and GB 1 Draft Ku-ring-gai Town Centres Development Contributions Plan, Draft Planning Agreements Policy & Draft Amendments to the adopted 2004 to 2009 Contributions Plan, Attachment 5.

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

*Against the Resolution:              Councillors Bennett and Malicki*

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

*(Moved: Councillors Bennett/Malicki)*

*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 15, Tender for Cleaning Services, Attachment 2; and GB 1 Draft Ku-ring-gai Town Centres Development Contributions Plan, Draft Planning Agreements Policy & Draft Amendments to the adopted 2004 to 2009 Contributions Plan, Attachment 5 last column, if the General Manager is of the opinion that the information in that column is commercial in confidence.*

*1st LOST Amendment:*

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

*(Moved: Councillors Malicki/Andrew)*

*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 15, Tender for Cleaning Services, Attachment 2; and GB 1 Draft Ku-ring-gai Town Centres Development Contributions Plan, Draft Planning Agreements Policy & Draft Amendments to the adopted 2004 to 2009 Contributions Plan, Attachment 5, with the exception of columns headed*

*Council's Anticipated Development; Encumbrances, APP Comments and Indicative Gross Sale Proceeds (not including the total).*

*2nd LOST Amendment:*

*The above First Amendment which was LOST was subject to a second Amendment which was also LOST. The Lost Amendment was*

*(Moved: Councillor Malicki/Bennett)*

- A. *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 15, Tender for Cleaning Services, Attachment 2; and GB 1 Draft Ku-ring-gai Town Centres Development Contributions Plan, Draft Planning Agreements Policy & Draft Amendments to the adopted 2004 to 2009 Contributions Plan, Attachment 5 as amended by B.*
- B. *That the General Manager be authorised to release all parts of Attachment 5 referred to in A above, which cannot legally be kept confidential in accordance with the Local Government Act and that, before the document is released to the public, the General Manager ensure that none of the information is inconsistent with Council's adopted position.*

## **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:**     **MM.1 - Are We Killing Our Blue Gum High Forest with Red Tape?**  
- Minute by the Mayor, Councillor Nick Ebbeck dated 19 May 2008.

**MM.2 - VALE Arthur Wenderlin Stautner** - Minute by the Mayor,  
Councillor Nick Ebbeck dated 26 May 2008.

**Refer GB.1 - Draft Ku-ring-gai Town Centres Development  
Contributions Plan, Draft Planning Agreements Policy &  
Draft Amendments to the Adopted 2004 to 2009  
Contributions Plan**

**Attachments** to the report as follows:

Attachment 1: Draft Town Centres Development Contribution Plan  
Attachment 2: Exhibition Draft: Planning Agreement Policy  
Attachment 3: Draft Amendment to the Contributions Schedule of  
2004 to 2009 Contribution Plan

**Councillors Information:** **Conference Costs & Other Events - Provision of Expenditure incurred by Councillors** - Memorandum by Director Corporate dated 26 May 2008 in relation to a Question Without Notice raised by Councillor Tony Hall at the Ordinary Meeting of Council held 25 March 2008

**Confidential Agenda Items:** **Refer GB.1 - Draft Ku-ring-gai Town Centres Development Contributions Plan, Draft Planning Agreements Policy & Draft Amendments to the Adopted 2004 to 2009 Contributions Plan** - Memorandums from Director Strategy dated 27 May with Confidential Attachment 5: Due Diligence Report May 2008

## **CONFIRMATION OF MINUTES**

### 157 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 13 May 2008  
Minutes numbered 139 to 154

#### **Resolved:**

(Moved: Councillors Cross/Ryan)

That Minutes numbered 139 to 154 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**

### 158 **Are We Killing Our Blue Gum High Forest with Red Tape?**

File: S06345

Blue Gum High Forest (BGHF), together with Sydney Turpentine Ironbark Forest, is core to what makes Ku-ring-gai a unique place to live. Both are what are known as Threatened Ecological Communities. Despite their vulnerability, as we have seen in our sustainability visioning process, they are fundamentally important to residents of Ku-ring-gai across all age groups.

Prior to European Settlement, the NSW Scientific Committee estimated there was some 3700 hectares of BGHF. Today less than 5% of this remains, and much of it is highly degraded. The distribution comprises a series of small remnant patches, the largest of which is less than 20ha. Highly modified relics of the community also persist as small clumps of trees without a native understorey. All remnants of the community are now surrounded by urban development. Consequently, the distribution of Blue Gum High Forest is severely fragmented.

Despite its precarious existence, it has become obvious in recent times that the different ways in which the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* and the New South Wales *Threatened Species Conservation Act 1995* treat BGHF may in fact be making protection of this threatened ecological community more difficult.

For example, the Commonwealth legislation applies to stands of BGHF greater than 1 hectare in area with a canopy cover greater than 10%. Occurrences with less than 10% canopy cover are also considered part of the ecological community if the fragments are greater than one ha in size and occur in areas of native vegetation in excess of 5 ha. Under this regime, the only stands of BGHF which would be afforded protection by the Commonwealth are predominantly already in reserves, such as Sheldon Forest, the Lane Cove National Park, Dalrymple-Hay Nature Reserve and the adjoining Browns Forest, 102 Rosedale Road and the Sydney Water property.

The State legislation however, surprising as it may sound, is far more generous in the protection it affords our precious BGHF. The State legislation for example is premised for example on what is known as the precautionary principle. Generally speaking, the precautionary approach provides that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. As recently noted by the New South Wales Land and Environment Court, remnants which do not have an understorey are an important part of the community because of their regenerative potential.

The reality of the situation is that unfortunately only very small stands of BGHF remain in Ku-ring-gai and surrounding local government areas. All are important and all deserve protection. The apparent gaps between the Commonwealth and State legislation protecting our Threatened Ecological Communities need to be addressed as a matter of urgency, and it is incumbent upon this Council to take a lead role in this debate.

**Resolved:**

- A. That Council writes to the Hon. Peter Garrett MP, Minister for the Environment advising him of the apparent failings of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* as it relates to Blue Gum High Forest.
- B. That Council convenes a meeting between the New South Wales Department of Environment and Climate Change, The Botanic Gardens Trust and the Commonwealth Department of Environment, Water, Heritage and the Arts and other appropriate stakeholders to try to resolve the apparent disconnect in legislative protection afforded Blue Gum High Forest.
- C. That Council notes my intention to write to the Mayors of the Cities of Willoughby, Ryde and the Shire of Hornsby seeking their support for this initiative.

**CARRIED UNANIMOUSLY**

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

*(Moved: Councillors Malicki/Bennett)*

- A. *That Council writes to the Hon. Peter Garrett MP, Minister for the Environment advising him of the apparent failings of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 as it relates to Blue Gum High Forest.*
- B. *That Council convenes a meeting between the New South Wales Department of Environment and Climate Change, The Botanic Gardens Trust and the Commonwealth Department of Environment, Water, Heritage and the Arts and other appropriate stakeholders to try to resolve the apparent disconnect in legislative protection afforded Blue Gum High Forest.*
- C. *That Council notes my intention to write to the Mayors of the Cities of Willoughby, Ryde and the Shire of Hornsby seeking their support for this initiative.*
- D. *That as a matter of policy and in order to show our commitment to protecting Blue Gum High Forest, Council will not sell or otherwise dispose of any of its land which is identified as Blue Gum High Forest.*

159

**Vale Arthur Wendelin Stautner**

Files: S02380, S04813

On behalf of Ku-ring-gai Council, I would like to pay tribute to the life and achievements of Arthur Wendelin Stautner, who passed away after a long illness on May 10, aged 69.

Arthur was a long-time Turramurra resident and was named Ku-ring-gai Citizen of the Year in 1999. He served the community with distinction and was an active member of Rotary, an organiser of local community celebrations, and member of numerous charities.

He was a person who held Ku-ring-gai with great affection and was proud to be a resident of this area. Often Arthur involved himself in projects for the betterment of this area and for the people who lived here. He was often referred to as the “unofficial Mayor of Ku-ring-gai”. Arthur considered himself as an ambassador for Ku-ring-gai, one who was entrusted with the promotion of the unique characteristics of Ku-ring-gai. Arthur had a tendency to avoid red tape and bureaucratic procedures, and was known at times to give himself executive powers when organising community festivals, erecting signs, diverting traffic and closing roads, to name a few.

As a result of his diverse life experiences, Arthur had the ability to empathise with people from all walks of life and tried to assist wherever possible. He made time for everyone, always saying hello, and genuinely interested in the plight of others. Customers at Arthur’s Bavarian Bakehouse were often greeted with a great big smile and a hug of friendship. A seat at his ‘stammtisch’ table was considered an honour.

Arthur had many interests including architecture, history, heritage, classical music, science and traditional crafts such as baking and cooking. As a person with an enquiring mind he was able to master many areas and always wanted to better inform himself through discussion and exploration with experts in those fields. These interests kept Arthur very busy, always positive and many times in the service of the community.

Ku-ring-gai has lost a true friend and Arthur will be fondly remembered by many as a champion of the community.

On behalf of Council, I offer Council's sincere condolences to Arthur's family.

**Resolved:**

- A. That this Mayoral Minute be received and noted.
- B. That we stand for a minute's silence to pay respects to the life of Arthur Wendelin Stautner.
- C. That a copy of this Mayoral Minute be sent to Arthur Wendelin Stautner's family.

**CARRIED UNANIMOUSLY**

*One Minute Silence was observed*

**GENERAL BUSINESS**

160 **228 to 232 Mona Vale Road & 3 Sturt Place, St Ives - Relocation of Stormwater Pipeline & Easement**

File: DA0761/07

For Council to consider granting approval for the relocation of a Council stormwater pipeline and easement that traverse the proposed development site.

**Resolved:**

(Moved: Councillors Hall/Bennett)

- A. That Council grants approval for the extinguishment of the existing easement and creation of a new drainage easement 1.83 metres wide over the new pipeline.
- B. That authority be given to affix the Common Seal of the Council to the instrument for release and creation of new easements.

- C. That the cost of altering the terms of the said easement for drainage including release and creation and Council's legal costs and disbursements be borne by the applicant.
- D. That Council approves the proposal to modify the stormwater pipelines in accordance with WaterPlan Pty Ltd Drawings SMON-1 and SMON-2 dated April 2008, subject to the following conditions:
  - a. The applicant carrying out all drainage works in accordance with the plans and specifications approved by Council at no cost to Council.
  - b. The redundant section of pipe is to be backfilled or removed upon completion of the new pipeline.
  - c. The works are to be subject to inspections. The applicant or his engineer is to give Council at least 24 hours' notice (to allow inspection) at the following stages:
    - i. After completion of excavation and prior to pipelaying commencing.
    - ii. After completion of pipelaying prior to backfilling.
    - iii. On completion of the pipeline installation.
- E. That prior to construction of the buildings, fencing or a suitable alternative be installed around the easement perimeter, at no cost to Council, to prevent loading by heavy construction machinery on the area directly above the pipeline.
- F. That after the buildings are completed, an inspection of the pipeline by closed circuit television (CCTV) or a suitable alternative be undertaken to verify the structural integrity of the pipeline by the applicant at no cost to Council, prior to issue of the Occupation Certificate.

**CARRIED UNANIMOUSLY**

161 **Analysis of Land & Environment Court Costs, Third Quarter, 2007 to 2008**

File: S02466

To provide information in relation to proceedings to which Council is a party in the Land & Environment Court for the quarter ended March 2008, including appeals commenced, costs incurred by Council and outcomes.

**Resolved:**

(Moved: Councillors Ryan/Lane)

That the analysis of Land & Environment Court costs for the second quarter ended March 2008 be received and noted.

**CARRIED UNANIMOUSLY**



162 **Goods & Services Tax - Council Compliance Requirements**

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File: S04970

To provide delegated authority to the General Manager to prepare a Certificate in the approved form on an annual basis, on behalf of the Council certifying its compliance with all Goods and Services Tax (GST) requirements.

**Resolved:**

(Moved: Councillors Ryan/Anderson)

That this report be received and noted, and the General Manager be delegated authority to prepare a Certificate in the approved form on an annual basis, on behalf of the Council certifying its compliance with all Goods and Services Tax requirements.

**CARRIED UNANIMOUSLY**

163 **Public Notices Policy**

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File: S06497

To consider a draft Public Notices Policy.

**Resolved:**

(Moved: Councillors Ryan/Lane)

- A. That the draft Public Notices Policy be adopted.
- B. That delegated power be granted to the General Manager to determine an approved form of public notice in accordance with the Public Notices Policy where no approved form is otherwise prescribed or determined by Council.

**CARRIED UNANIMOUSLY**

164 **Policy for the Payment of Expenses & Provision of Facilities to Councillors**

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File: S03779

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

**Resolved:**

(Moved: Councillors Ryan/Andrew)

That the revised Policy for the Payment of Expenses and Provision of Facilities to Councillors be endorsed for placing on public exhibition.

**CARRIED UNANIMOUSLY**

165     **2007 to 2011 Management Plan - 3rd Quarter Update as at 31 March 2008**

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File: S05708

To report to Council on progress against the Key Performance Indicators as contained in Council's 2007-2011 Management Plan.

**Resolved:**

(Moved: Councillors Ryan/Andrew)

That the report on the progress of the Key Performance Indicators contained in the 2007-2011 Management Plan for the 3rd quarter of the Plan be received and noted.

**CARRIED UNANIMOUSLY**

166     **Sustainability Reference Group Minutes of Meeting of Monday, 7 April 2008**

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File: S05396

To bring to the attention of Council the proceedings from the Sustainability Reference Group Meeting held on Monday, 7 April 2008.

**Resolved:**

(Moved: Councillor Ryan/Mayor, Councillor Ebbeck)

- A. That the Minutes of the Sustainability Reference Group meeting of Monday, 7 April 2008 and attachments be received and noted.
- B. That the draft Charter (as Attachment 2) be adopted for the Sustainability Reference Group.

**CARRIED UNANIMOUSLY**

167     **Conservation Management Plans for Council-owned Heritage Buildings**

File: S06665

To present to Council estimated costs, a priority list and timetable for the preparation and review of Conservation Management Plans for Council owned heritage buildings.

**Resolved:**

(Moved: Councillors Ryan/Andrew)

- A. That Conservation Management Plans be prepared or reviewed for Council owned properties in the timetable by year, as shown in Table 1 of this report.
- B. That an allocation of \$35,000 be made from operational savings in the Strategy budget for the preparation of a Conservation Management Plan for Council Chambers, 818 Pacific Highway, Gordon and Tulkiyan, 707 Pacific Highway, Gordon.

**CARRIED UNANIMOUSLY**

168     **4 to 6 Drovers Way, Lindfield - Relocation of Stormwater Pipeline & Easement**

File: P41240

For Council to consider granting approval for the relocation of a Council stormwater pipeline and easement that traverse the subject properties.

**Resolved:**

(Moved: Councillors Ryan/Andrew)

- A. That Council grants approval for the extinguishment of the existing easement and creation of a new drainage easement 2.44 metres wide over the new pipeline.
- B. That authority be given to affix the Common Seal of the Council to the Instrument for release and creation of new easements.
- C. That the cost of altering the terms of the easement for drainage including extinguishment and creation and Council's legal costs and disbursements be borne by the applicant.
- D. That the existing easement be extinguished upon issue of a Construction Certificate for the redevelopment of the site, in order to maintain an overland flowpath through the site until that time.

- E. That Council approve the proposal to modify the stormwater system in accordance with the Acor Appleyard Forrest Drawings 382716/ P1 to P7, all Issue 2, and the recommendations of Landscape Matrix, subject to the following conditions:
- a. The applicant providing documentary evidence of the consent of the owners of the subject properties to the works prior to the commencement of any physical works on the site.
  - b. The applicant carrying out all drainage works in accordance with the plans and specifications approved by Council at no cost to Council.
  - c. The works are subject to inspections. The applicant or his engineer is to give Council at least 24 hours' notice (to allow inspection) at the following stages:
    - i after completion of excavation and prior to pipelaying commencing;
    - ii after completion of pipelaying prior to backfilling; and,
    - iii on completion of pipe installation.
- F. That after the works are completed, an inspection of the pipeline by CCTV or suitable alternative be undertaken by the applicant to verify the structural integrity of the pipe at no cost to Council.
- G. That after the works are completed, a Works-as-Executed plan be prepared by the applicant's registered surveyor and provided to Council, together with the engineer's certification of the works and the arborist's certification that the works have been carried out in accordance with the recommendations of Landscape Matrix. All these documents are to be prepared by the applicant at his cost.
- H. Landscape Conditions
- a. No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.
  - b. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
  - c. Approval is given for the following works to be undertaken to trees on the site:
 

<p><b>Schedule</b></p> <p><b>Tree location</b></p> <p>Liquidambar styraciflua (Sweet Gum) Dead Within Proposed Pit 2 location</p>	<p><b>Approved tree works</b></p> <p>Removal</p>
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  - d. Removal or pruning of any other tree on the site is not approved.
  - e. If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced arborist/horticulturist with a minimum qualification of horticulture certificate or tree surgery certificate

- f. No tree roots of 30mm or greater in diameter located within the specified radius of the trunk(s) of the following, tree(s) shall be severed or injured in the process of any works during the construction period.

**Schedule****Tree/location****Radius from trunk**

Any tree protected by Council's Tree preservation Order      Beneath canopy drip line

- g. All excavation within the specified radius of the trunk(s) of the following tree(s) shall be hand dug:

**Schedule****Tree/location****Radius from trunk**

Cedrus deodar (Himalayan Cedar)  
Adjacent to trunk drainage line      Beneath the canopy drip line

Franklinia axillaris (Gordonia) x 3  
Adjacent to trunk drainage line      "

Pinus patula (Mexican Pine) x 2  
Adjacent to trunk drainage line      "

Phoenix canariensis (Canary Island Date Palm) x 2  
Adjacent to trunk drainage line      "

Platanus x hybrida (London Plane Tree)  
Adjacent to trunk drainage line      "

Liquidambar styraciflua (Sweet Gum)  
Adjacent to trunk drainage line      "

Acer negundo (Box Elder)  
Adjacent to trunk drainage line      "

- h. Excavation for the installation of any services/drainage lines beneath the canopy drip lines of any tree protected by Council's tree Preservation Order (TPO) shall utilise the thrust boring method. Thrust boring shall be carried out at least 1000mm beneath natural ground level to minimise damage to tree(s) root system

- i. To preserve the following tree/s, no work shall commence until the area beneath their canopy is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

**Schedule****Tree/location****Radius in metres**

Cedrus deodar (Himalayan Cedar)  
Adjacent to trunk drainage line      4.0m

Franklinia axillaris (Gordonia) x 3  
Adjacent to trunk drainage line      3.0m

Pinus patula (Mexican Pine) x 2  
Adjacent to trunk drainage line      3.0m

Phoenix canariensis (Canary Island Date Palm) x 2  
Adjacent to trunk drainage line      3.0m

Platanus x hybrida (London Plane Tree) 3.0m  
Adjacent to trunk drainage line

Liquidambar styraciflua (Sweet Gum) 4.0m  
Adjacent to trunk drainage line

Acer negundo (Box Elder) 3.0m  
Adjacent to trunk drainage line

- j. The tree protection fencing shall be constructed of galvanised pipe at 2.4 metre spacing and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres in height prior to work commencing.
- k. Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:
  - \* tree protection zone
  - \* this fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted
  - \* any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report
  - \* the arborist's report shall provide proof that no other alternative is available
  - \* the arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council
  - \* the name, address, and telephone number of the developer.
- l. To preserve the following tree/s and avoid soil compaction, no work shall commence until temporary measures to avoid soil compaction (eg rumble boards) beneath the canopy of the following tree/s is/are installed where vehicular or repeated pedestrian access is required:

#### **Schedule**

##### **Tree/Location**

Beneath the canopy dripline of any tree protected by Council's tree preservation order

- m. Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

**CARRIED UNANIMOUSLY**

*Standing Orders were suspended in order that the following item could be dealt with first after a Motion moved by Councillors Malicki & Ryan was CARRIED UNANIMOUSLY*

169 **Road Naming Rainforest Close, Wahroonga**

File: S03211

Ward: Comenarra

To report on the re-naming of 'Bogan Place' to 'Rainforest Close' Wahroonga.

**Resolved:**

(Moved: Councillors Malicki/Bennett)

- A. That Council re-names 'Bogan Place' to 'Rainforest Close,' Wahroonga.
- B. That a notice to re-name the street be published in a local newspaper and the NSW Government Gazette.
- C. That Council informs Australia Post, the Registrar General, Surveyor General and the Geographical Names Board of the new street name.

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

*Against the Resolution:   Councillors Andrew and Anderson*

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

*(Moved: Councillor Anderson/Hall)*

- A. *That this matter stand deferred*
- B. *That in addition to the suggestion of a name change to "Rainforest Close", Council officers consult with appropriate bodies, including the Aboriginal Heritage Office and the Metropolitan Lands Council regarding –*
  - i) an option to retain the name "Bogan Place" which is of Aboriginal origin;*
  - ii) an option to select an alternative Aboriginal name to replace "Bogan Place" and,*

- C. *That a report be brought back to Council following this additional consultation.*

170

**Draft Ku-ring-gai Town Centres Development Contributions Plan, Draft Planning Agreements Policy & Draft Amendments to the Adopted 2004 to 2009 Contributions Plan**

.  
File: S04495

For Council to consider and adopt for exhibition the draft Ku-ring-gai Town Centres Development Contributions Plan, the draft Planning Agreements Policy and consequential amendments to the 2004-2009 Contributions Plan (Amendment Two).

**Resolved:**

(Moved: Councillors Ryan/Andrew)

- A. That the draft Ku-ring-gai Town Centres Development Contributions Plan be adopted for exhibition and placed on public exhibition as soon as practical.
- B. i) That in the Exhibition Draft Planning Agreement Policy 2008 under section 7.2 Negotiation Procedures (page 17), paragraph one, the second sentence be deleted and replaced with the following – “Councillors will not be involved in the negotiation of a planning agreement”.
- ii) That the Exhibition Draft: Planning Agreement Policy as amended by (i), be placed on concurrent public exhibition.
- C. That consequential amendments to Ku-ring-gai Section 94 Contributions Plan 2004-2009 – Amendment 1 be placed on concurrent public exhibition.
- D. That a further report to Council be prepared at the close of the exhibition period.
- E. That an extraordinary meeting of Council on Tuesday 15 July 2008 be held following the exhibition period to consider the Draft Plan.

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

*Against the Resolution:                Councillors Bennett and Malicki*

171

**Budget Review 2007 to 2008 - 3rd Quarter Review as at end of March 2008**

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File: S05708

To present to Council the quarterly financial review for the 3rd quarter ended 31 March 2008.



**Councillor Ryan withdrew during discussion**

**Resolved:**

(Moved: Councillors Cross/Lane)

- A. That Council adopted the budget adjustments contained in this report.
- B. That the Restricted Assets Report Forecast to 30 June 2008 as at 31 March 2008, as shown in Attachment C be approved.
- C. That the Reserve movements and closures contained in this report be approved.

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

*Against the Resolution:   Councillor Bennett*

**Councillor Ryan returned**

172   **Investment Report as at 30 April 2008**

File: S05273

To present to Council investment allocations and returns on investments for April 2008.

**Resolved:**

(Moved: Councillors Bennett/Cross)

- A. That the summary of investments and performance for April 2008 be received and noted.
- B. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.
- C. That where investments have had negative returns since inception, full details of the nature of their capital guarantee be provided in the next investment report.

**CARRIED UNANIMOUSLY**

173 **Poll of Electors**

File: S06203

To consider whether Council wishes to proceed with a Poll of Electors in conjunction with the September 2008 Local Government Election.

**Motion:**

(Moved: Councillors Malicki/Bennett)

That Council proceed with the Poll question as set out in the report.

*For the Motion: Councillors Bennett and Malicki*

*Against the Motion: The Mayor, Councillor N Ebbeck, Councillors Andrew, Cross, Hall, Lane, Ryan and Anderson*

*No decision was taken in respect of the above matter as the Motion when put to the vote was LOST*

*Standing Orders were suspended in order that  
GB.15 - Tender for Cleaning Services  
be dealt with at the end of the meeting  
after a Motion moved by Councillors Ryan and Lane  
was CARRIED UNANIMOUSLY*

**QUESTIONS WITHOUT NOTICE**174 **Freeway Corridor Land in South Turramurra**

File: S04534

Question Without Notice from Councillor E Malicki

Is the freeway corridor land in South Turramurra to be used to fund Town Centre facilities as stated by Councillor Ryan in her summing up for Item 1, as well as being optimised to pay for 6 playing fields?

**Answer by the Director Strategy**

A report hasn't been given to Council on that and no decision has been made.

175 **ICAC Reference**

Files: S06344, S06673

Question Without Notice from Councillor T Hall

I refer to a newspaper report that you, Mr Mayor, have personally referred me to the ICAC over alleged comments made notwithstanding Council has not resolved to do so nor the General Manager has been involved as required under Section 10 of the ICAC Act.

In the circumstances, would you kindly advise Councillors the substance of your reference please?

**Answer by the Mayor**

No, I won't be. It is inappropriate and if I could just make the comment that I have spoken to both yourself and also Councillor Shelley that it was never the intention that it be against you. The complaint has been put against myself, not you or Councillor Shelley. I put the Code of Conduct against myself, sorry not the Code of Conduct, the ICAC enquiry against myself and that's how my complaint is written. It is about me, not about you or Councillor Shelley.

**Councillor Hall**

Haven't spoken to me!

**Answer by the Mayor**

Oh, anyway, I was under the impression I did that it was.....

**Councillor Hall:** interrupted

**Answer by Mayor**

Okay....I have indeed spoken to you in the Councillors Room the other night but it was never the intention against you, it was.....the complaint has been put against myself. Not you or Councillor...ah....Shelley. I put the Code of Conduct against myself....ah, sorry not the Code of Conduct, the ICAC enquiry against myself and that's how my complaint is written. It's about me not about you or Councillor Shelley.

176 **Representations by Mayor, Councillor Ebbeck**

File: S06344

Question Without Notice from Councillor T Hall

I refer the Mayor to his e-mail of Sunday, 13 April 2008 received by me at 9.33am which in part stated and I quote "....Tony, I am now putting you on notice.... I am on the verge of doing everything I can to make sure you are never elected."

What action are you proposing to take against me and would you not agree you have threatened a public official to ensure his re-election on 13 September does not occur?

**Answer by the Mayor**

I'll take that on notice. I don't know what the question is.

*Standing Orders were suspended to deal with the following Business Paper item after a Motion moved by Councillors Cross & Ryan was CARRIED UNANIMOUSLY*

*Council resolved itself into Closed Meeting with the Press and Public Excluded to deal with the following item:*

177 **Tender for Cleaning Services**

File: S06583

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)(d) of the Act, and was dealt with in a part of the meeting closed to the public.

Section 10A(2)(d) of the Act permits the meeting to be closed to the public for business relating to commercial information of a confidential nature that would, if disclosed:

- (i) prejudice the commercial position of the person who supplied it, or
- (ii) confer a commercial advantage on a competitor of Council, or
- (iii) reveal a trade secret.

This matter is classified confidential under section 10A(2)(d)(i) because it deals with tenders. Tender details, should they be revealed, may result in commercial disadvantage to parties involved in the tender process. Some information provided to Council by tenderers is provided on the basis that Council will treat it as commercial in confidence.

It is not in the public interest to reveal details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by Council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to Council's decision.

The public were invited to make representations to the Meeting before the Meeting was closed to the public as to whether that part of the Meeting should be closed.

No members of the public made representations.

To advise Council of the outcome of the tender for cleaning services of a number of Council facilities and to seek adoption of the preferred tender for the services.

**Resolved:**

(Moved: Councillors Cross/Ryan)

- A. That Council accepts the tender from Cama Corp Pty Ltd for the cleaning of Council facilities for three (3) years from 1 July 2008.
- B. That the Mayor and General Manager be delegated authority to sign the tender documents under the seal of Council.
- C. That Mr Lindsay be advised that based on the tenders received, that Council will no longer require his services for the cleaning of the Seniors' Centres from 1 July 2008.

**CARRIED UNANIMOUSLY**

To Open Council

The Mayor adverted to the consideration of the matters referred to in Minute numbered 177, and to resolutions contained in such Minute.

*The Meeting closed at 10.00pm*

The Minutes of the Ordinary Meeting of Council held on 27 May 2008 (Pages 1 - 21) were confirmed as a full and accurate record of proceedings on 11 June 2008.

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General Manager

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Mayor / Chairperson