

## **MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 3 AUGUST 2004**

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

Staff Present: General Manager (Brian Bell)  
Director Environment & Regulatory Services (Michael Miocic)  
Director Planning (Leta Webb)  
Director Technical Services (Greg Piconi)  
Director Open Space (Steven Head)  
Director Community Services (Janice Bevan)  
Director Finance & Business (John McKee)  
Senior Governance Officer (Geoff O'Rourke)  
Office Co-ordinator/WP (Casey Locke)

*The Meeting commenced at 7.02pm*

*The Mayor offered the Prayer*

### **ADDRESS THE COUNCIL**

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

C Petherbridge  
D Rozenman

### **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:

Refers NM.2: Clause 251(6) of LEP 194 – Memorandum from Director Planning dated 3 August 2004

## CONFIRMATION OF MINUTES

### 362 Minutes of Ordinary Meeting of Council

File: S03476

Meeting held 20 July 2004

Confirmation of Minute No 328 – General Matter – Federal Office of Road Safety  
National Black Spot Program

#### **Resolved:**

(Moved: Councillors Malicki/Cross)

That Minute No 328 be amended to read as follows and be confirmed as accurate:

- A. That applications be made for funding allocations under the National Black Spot Program for 2004/2005 for the following sites:
  - i. Pentecost Avenue/Merrivale Road;
  - ii. Link Road/Killeaton Street.
- B. That the Roads and Traffic Authority be requested to support the nominated treatments under the program.
- C. That preliminary consultation be undertaken with directly affected residents for the nominated projects.
- D. That the provision of an advance stop line for eastbound cyclists in Burns Road at Bobbin Head Road be investigated.
- E. That the **intersection** of Bobbin Head Road and Burns Road be deferred for further investigation to examine right turn phases on all four directions.

**CARRIED UNANIMOUSLY**

### 363 Minutes of Ordinary Meeting of Council

File: S02973

Meeting held 20 July 2004

Confirmation of Minute No 344 – Inappropriateness of Site Cover – Discussion with Minister

#### **Resolved:**

(Moved: Councillors Malicki/Cross)

That Minute No 344 be amended to read as follows and confirmed as accurate:

Question Without Notice from Councillor E Malicki

How soon can we begin to hold discussions with the Minister, our staff and consultants on the inappropriateness of the 35% site cover?

**Answer by General Manager**

**I was saying it was a good idea Councillor.**

**Mayor**

**It's a very good idea.**

**Councillor Malicki**

**Thank you Mr Bell.**

**Answer by the Mayor**

I am actually going to be making a phone call in the morning and backing that up with a letter, as well, requesting an urgent meeting with the Minister.

**Councillor Malicki**

We need our consultants there!

**Continuing Answer by Mayor**

Absolutely, it will be in the presence of Miss Webb, Mr Fabbro, the Minister, the consultant, the one we all saw last night and, obviously, also, who was other one, Miss Webb?

**Answer by Director Planning**

We are going to ask if the Minister does agree, that she, in fact, also bring along a member of the Urban Design Advisory Service which is her urban design advisors.

**Answer by Mayor**

As soon as we get a response, we hopefully will get a favourable response, I will let you know Councillors.

**CARRIED UNANIMOUSLY**

364 **Minutes of Ordinary Meeting of Council**  
File: S02131  
Meeting held 27 July 2004  
Minutes numbered 349 to 361

**Resolved:**

(Moved: Councillors Malicki/Innes)

That Minutes numbered 349 to 361 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting, with the exception of Minute No 357.

**CARRIED UNANIMOUSLY**

365     **Application to Amend Ku-ring-gai Planning Scheme Ordinance regarding 657 - 661 Pacific Highway, Killara**

File: S02029

*Vide Minute No 357*

**Resolved:**

(Moved: Councillors Malicki/Innes)

That the notation under the Lost Motion in Minute No 357 be amended to read:

*The voting being EQUAL, the **Deputy Mayor**  
exercised her Casting Vote AGAINST the Motion*

**CARRIED UNANIMOUSLY**

**REPORTS FROM COMMITTEES**

**Minutes of Ku-ring-gai Traffic Committee**

File: S02110

Meeting held 22 July 2004

Minutes numbered KTC18 to KTC21

366     **General Matter - Items under Delegated Authority**

File: S02738

*Vide Minute No KTC18*

Advice on matters considered under the Delegated Authority.

**Resolved:**

(Moved: Councillors Lane/Ebbeck)

That the information regarding traffic facilities approved in June 2004 under Delegated Authority, be noted.

**CARRIED UNANIMOUSLY**

367

**Werona Avenue, Gordon**

File: 88/06216/03

Ward: Gordon

Electorate: Davidson

*Vide Minute No KTC19*

To consider the installation of a roundabout in Werona Avenue at the intersection with the railway underpass road near Gordon railway station.

**Resolved:**

(Moved: Councillors Lane/Ebbeck)

- A. That Council notes that the responses received to the advertising under Section 116 of the Roads Act for a proposed roundabout in Werona Avenue at the railway underpass were favourable, and endorses the concept plan for the roundabout, subject to the outcome of formal notification for the removal of the tree in the road carriageway.
- B. That Council seek formal approval for the concept plan from the Roads and Traffic Authority, for the proposed roundabout in Werona Avenue at the railway underpass.

**CARRIED UNANIMOUSLY**

368

**Grandview Street, Pymble**

File: 88/05496/03

Ward: St Ives

Electorate: Ku-ring-gai

*Vide Minute No KTC20*

To consider a request from Energy Australia to close the intersection of Grandview Street and Fern Street for upgrading electricity network.

**Resolved:**

(Moved: Councillors Lane/Ebbeck)

That Council consent to the proposed temporary closure of the intersection of Grandview and Fern Streets for 14 weeks commencing in September 2004 subject to:

1. The Committee noted that the Roads and Traffic Authority has approved the Traffic Management Plan submitted by Energy Australia for the intersection closure, subject to minor amendments.
2. Energy Australia fully implementing the Roads and Traffic Authority's approved Traffic Management Plan to alleviate traffic congestion during the closure and to address the traffic impacts that may result from the proposed road closures.
3. The closure being advertised in accordance with Section 116 of the Roads Act 1993, and no substantial objections to the proposal which cannot be addressed, being received by the closing date of the advertising.
4. Energy Australia paying Council's current fee of \$1,115 for advertising and processing the road closure application.
5. The residents within the area including the proposed detour route be notified by letterbox drop by Energy Australia of the temporary road closure, reasons for the closure and the alternative route. An Energy Australia contact name and telephone number should be included on letters to residents.
6. Energy Australia liaising with Council's Manager Waste Services in regard to garbage collection in the area during the period of the road closure.
7. Access to all properties near the proposed closure should be maintained at all times. Emergency vehicles being given unimpeded access into the area during the closure.
8. Energy Australia supply Public Liability insurance cover of \$20 million, naming Ku-ring-gai Council as principal. A certificate of currency is to be sighted by Council's Director Technical Services before the work is commenced.
9. The Local Area Commander Ku-ring-gai be requested to patrol the area and monitor traffic conditions during the road closure.
10. A Regulatory Officer visiting the site during the closure to monitor traffic conditions and to ensure Council's conditions of approval are being observed.
11. Energy Australia responding in writing to Council by 31 August 2004, confirming its acceptance of Council's decision for the proposed road closure and paying Council's fee by that date.

**CARRIED UNANIMOUSLY**

369 **Marshall Avenue, Warrawee**

File: 88/05758/03

Ward: Comenarra

Electorate: Ku-ring-gai  
*Vide Minute No KTC21*

To consider the road width in Marshall Avenue outside the Ministers Site No. 5 at Pacific Highway/Marshall Avenue, Warrawee.

**Resolved:**

(Moved: Councillors Malicki/Lane)

- A. That Council note that as a condition of consent for the site, the Applicant is required by DIPNR to widen the Marshall Avenue road reserve (at the site's frontage) to 15.5m and construct the road carriageway as shown in Sketch Plan No: Marshall/KTC/07/04.
- B. That DIPNR be advised that Council considers the proposed lane and parking widths in Marshall Avenue to be inadequate.
- C. That Council seek written confirmation from the RTA about incorporating Marshall Avenue in the traffic signal plan for Fox Valley Road.

**CARRIED UNANIMOUSLY**

*Standing Orders were suspended to deal with item GB.4 first  
after a Motion moved by Councillor Ebbeck and  
Councillor Andrew was CARRIED UNANIMOUSLY*

**GENERAL BUSINESS**

370 **1234 to 1274 Pacific Highway and 1 Beechworth Road, Pymble - Proposed Rezoning - Additional Information Received**

File: S02036

To provide Council with additional information on the sites 1234-1274 Pacific Highway and 1 Beechworth Road, Pymble that have previously been considered for rezoning.

*A Motion moved by Councillors Cross and Innes  
to hear all speakers was CARRIED*

*For the Motion: The Mayor, Councillor A Ryan, Councillors Cross,  
Andrew, Bennett, Hall, Innes, Lane and Shelley*

*Against the Motion: Councillors Ebbeck and Malicki*

**The following members of the public addressed Council:**

**L Hall  
E Armstrong  
C Young  
G Howard**

**PERSONAL EXPLANATION**

Councillor Malicki gave a personal explanation in relation to the issues raised by L Hall during her address to Council on the matter.

**Resolved:**

(Moved: Councillors Malicki/Ebbeck)

- A. That Council receive and note the information.
- B. That Council advise the property owners of 1234-1274 Pacific Highway and 1 Beechworth Road, Pymble Council will not be committing further resources to this matter unless a formal rezoning application is received by Council.

**CARRIED UNANIMOUSLY**

371 **Strategies to Manage and Protect Unmade Roads - Summary of Surveyed Roads**

File: S03498

To report to Council on strategies to manage and protect unmade roads.

**Resolved:**

(Moved: Councillors Malicki/Cross)

- A. That Council receive and note the report.
- B. That unmade roads occurring in Bushland be managed by Open Space.
- C. That the six highest priority unmade roads be reviewed each year for reclassification.
- D. That the matter be reviewed by the Bushland Catchment Natural Areas Reference Group and reported back to Council.

**CARRIED UNANIMOUSLY**



372      **Deputy Mayoral Term - 2004/2005**

File: S02356

To give consideration to setting the date for the election of the Deputy Mayor or an extension of the Term of Office until September 2005.

**Resolved:**

(Moved: Councillors Malicki/Bennett)

That the 2004/2005 election of the Deputy Mayor be held at the Ordinary Meeting of Council on Tuesday, 7 September 2004.

**CARRIED UNANIMOUSLY**

*The above Resolution was CARRIED as a Substantive Motion to the Original Motion which was LOST. The Lost Original Motion was:*

*(Moved: Councillors Innes/Hall)*

*That due to the truncated term of office for the current Deputy Mayor, Council, in conformity with the legislative approach taken by the State Government for the office of Mayor, extend the term of the Deputy Mayor until September 2005.*

373      **National General Assembly of Local Government 2004**

File: S02133

For Council to determine its elected delegates to the 2004 National General Assembly of Local Government.

**Resolved:**

(Moved: Councillors Innes/Cross)

- A. That interested Councillors advise the General Manager by 17 August 2004.
- B. That voting rights be determined by the order in which Councillors nominate for the conference.

**CARRIED UNANIMOUSLY**

## **MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**

374

### **Retail Centres**

File: S02921

**Notice of Motion from Councillor L Bennett dated 19 July 2004.**

I move:

That a site inspection of Retail Centres in other Council areas be arranged.

### **Resolved:**

(Moved: Councillors Bennett/Innes)

That the above Notice of Motion as amended be adopted.

**CARRIED UNANIMOUSLY**

375

### **Clause 251(6) of LEP 194**

File: S02036

**Notice of Motion from Councillor L Bennett, Councillor I Cross, and Councillor E Malicki dated 20 July 2004.**

*A Motion moved by Councillors Malicki and Bennett  
to hear all speakers was CARRIED*

*For the Motion: Councillors Cross, Andrew, Bennett, Ebbeck, Hall,  
Lane and Malicki*

*Against the Motion: The Mayor, Councillor A Ryan, Councillors Innes  
and Shelley*

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

*(Moved: Councillors Andrew/Lane)*

*That a Motion be moved to hear 2 speakers for the Recommendation.*

**The following members of the public addressed Council:**

**M Riley  
S Young  
J Johnston  
L Trevena**

**P Wilson Parker**  
**S Phan**

I move:

- A. That a Report be brought to council to consider amending Clause 25I(6) of LEP 194 to allow land adjoining that for medium density to be counted as part of the site (with no change to its zoning status).
- B. That the Report address the following issues:
  - 1. the ability of such a change to minimise the impact of 5 story development on adjoining dwellings in single residential zones.
  - 2. whether the controls in LEP 194 and DCP 55 (including draft controls) would be achievable given an amendment to Clause 25I(6)
  - 3. what negative impacts might result from an amendment to clause 25I(6) including any changes to bulk and scale
  - 4. what the scope of any amendment could be including whether it could be restricted to land zoned for single residential dwellings with street frontage or up to a maximum size
- C. That a map of interface sites that would be affected be prepared.
- D. That funding for implementation be sourced in the first instance from any budgetary surplus in the current financial year to a maximum of \$20,000 and that the Report come to Council no later than September 2004.

**The Lost Motion:**

(Moved: Councillors Bennett/Cross)

That the above Notice of Motion as printed be adopted.

*For the Motion:*                      *Councillors Cross, Andrew, Bennett, Ebbeck and Malicki*

*Against the Motion:*              *The Mayor, Councillor A Ryan, Councillors Hall, Innes, Lane and Shelley*

*The voting being EQUAL, the Mayor exercised her Casting Vote  
AGAINST the Motion*

## **The Lost Amendment:**

(Moved: Councillors Malicki/Innes)

That a report be brought to Council giving suggestions for ways we can mitigate the impacts of LEP 194 on adjacent properties.

*For the Amendment: Councillors Innes, Malicki and Shelley*

*Against the Amendment: The Mayor, Councillor A Ryan, Councillors Cross, Andrew, Bennett, Ebbeck, Hall, Lane*

*No decision was taken in respect of the above matter following a Motion and an Amendment, both of which when put to the vote, were LOST*

## **QUESTIONS WITHOUT NOTICE**

### **376 LEP 194 and DLEP 200 - Child Care Centres**

Files: S02036, S03209

Question Without Notice from Councillor T Hall

Is it a fact that child care centres are a prohibited use under the 2(c2) and 2(d3) zones gazetted in LEP 194 by the Assistant Planning Minister on 28 May 2004 and in the similar DLEP 200 residential zones?

Is the Mayor aware that this oversight has been reported to the NSW Minister for Children Services being against the State Government's own policy on child care services?

Would the Mayor urgently request the Assistant Planning Minister to amend LEP 194 and DLEP 200 to include child care services?

### **Answer by the Mayor**

I will have to consult with the Director and I will certainly do that.

### **377 DCP 38 - Single Residential Zones Controls**

File: S02084

Question Without Notice from Councillor T Hall

I ask the General Manager that in view of the perceived inconsistencies by home owner applicants for development changes to their homes, would he make the necessary resources available to have DCP 38 reviewed at the earliest opportunity?

**Answer by Director Planning**

In fact, I have had a discussion with a member of the staff today and she, in fact, has a list of all the people who nominated and we are actually going to bring back, to the next Planning Committee, the proposal that it form a sub-group to review DCP38, so we are on the ball on that one.

378 **Tulkiyan**

File: P54737

Question Without Notice from Councillor G Innes

On a visit to Tulkiyan for its open day last Sunday, I was informed by the volunteers organising the day that my six year old daughter could not go inside the house, as children under the age of twelve were not allowed inside.

Could the General Manager please advise:

1. If in fact this is the case;
2. Whether it is based on a previous resolution of Council;
3. Whether such a resolution is in breach of Commonwealth and State age discrimination legislation;
4. Whether such a policy applies to Eryldene, or any other heritage properties in the municipality;

Could the General Manager also advise the basis for the requirement to remove shoes before entering the property? Is this required by Council resolution, and is there such a policy at Eryldene, or in other heritage properties in the municipality?

**Answer by the Mayor**

General Manager will investigate that Councillor and will report back to you.

379 **Council Chambers Chairs**

File: S02533

Question Without Notice from Councillor E Malicki

Can the chairs in the Council Chambers be recovered or replaced please? This has not happened for over 15 years.

**Answer by the Mayor**

The General Manager has advised that he will have a package to suggest to you at some stage in the near future. That could be part of that package.

380 **Council Chambers - Councillors' Vehicle Parking Spaces**

File: S03643

Question Without Notice from Councillor E Malicki

Can the Councillors' car parking spaces be activated on Committee nights and nights when a lot of Councillors are expected to be in the building and can staff be informed that the spaces are for Councillors on those occasions please?

**Answer by General Manager**

It will be and they are.

381 **657 to 661 Pacific Highway, Killara - New Information**

File: S02029

Question Without Notice from Councillor I Cross

I am aware that the owners of 657-661 Pacific Highway, Killara have submitted new information re their re-zoning of their site.

Can we have this information as a matter of urgency, prior to the Thursday delivery?

**Answer by General Manager**

Attempts will be made to make that happen, Councillor.

*The Meeting closed at 9.15pm*

The Minutes of the Ordinary Meeting of Council held on 3 August 2004 (Pages 1 - 14) were confirmed as a full and accurate record of proceedings on 10 August 2004.

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General Manager

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Mayor / Chairperson