

## MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 4 DECEMBER 2007

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

Staff Present: General Manager (John McKee)  
Director Development & Regulation (Michael Miocic)  
Director Operations (Greg Piconi)  
Manager Urban Planning (Antony Fabbro)  
Manager Corporate Planning & Sustainability (Peter Davies)  
Manager Finance (Tino Caltabiano)  
Director Community (Janice Bevan)  
Minutes Secretary (Christina Randall-Smith)

*The Meeting commenced at 7.02pm*

*The Mayor offered the Prayer*

### 492 APOLOGIES

File: S02194

Councillors A Ryan and T Hall tendered apologies for non-attendance (family commitments) and requested leave of absence.

Director Corporate, John Clark and Senior Governance Officer, G O'Rourke tendered apologies for non-attendance.

### **Resolved:**

(Moved: Councillors Cross/Lane)

That the apologies by Councillors A Ryan and T Hall 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.

Councillor J Anderson declared a Pecuniary Interest to Item GB.2 - Bradfield Park Pre-School & Childcare Centre (due to her membership of the Committee of the Bradfield Park Pre-School & Childcare Centre).

### 493 Confirmation of Reports to be Considered in Closed Meeting

File: S02499

#### **Resolved:**

(Moved: Councillors Lane/Cross)

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:

- C.1 **Tender for the Provision of Legal Services** - Report by Corporate Lawyer, Director Development & Regulation, Director Corporate & General Manager dated 12 November 2007.

**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:

**Councillors Information:** **Review of Traffic Management Plan for Kings Avenue, Roseville** - Memorandum by Director Development & Regulation dated 19 November 2007 in reference to a Question Without Notice raised by Councillor Maureen Shelley at the Ordinary Meeting of Council held 28 August 2007.

**Memorandum:** **Draft Planning Agreement Policy** - Memorandum by Manager Urban Planning dated 4 December 2007 - Attachment 2 - Appendices to the Draft Planning Agreement Policy.

**Confidential Memorandum:** **Legal Appeal Success Rates** - Memorandum by Corporate Lawyer dated 4 December 2007

**CONFIRMATION OF MINUTES**494 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 20 November 2007  
Minutes numbered 469 to 491

**Resolved:**

(Moved: Councillors Cross/Lane)

That Minutes numbered 469 to 491 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**495 **National Trust Festival 2008**

File: S02792

I have been approached by representatives from the National Trust with a proposal for Council to become a sponsor for the 2008 National Trust Festival. (see **attached**)

The Festival, which celebrates Australia's natural and cultural heritage, will be held from Saturday, 5 April to Sunday, 20 April 2008. Its theme "Our Place" was developed to pay tribute to Australia and its people.

The proposed amount for sponsorship for this event is \$10,000. The benefits to Council, as a major sponsor would be an entire page in the Signature Events Section of the National Trust Program. The program has a print run of 35,000 items, which are distributed across NSW. There would also be logo recognition as a sponsor of the festival on the sponsor page of all programs, as well as in the National Trust member magazine.

Currently there is no funding in the Sponsorship Budget to sponsor this event. Should Council decide to provide sponsorship to the National Trust, funds would need to be sought in the next budget review.

**Resolved:**

(Moved: Councillors Malicki/Bennett)

That the Mayor and Director Community to hold discussion with the National Trust about reducing the sponsorship amount and defer the matter until the next meeting of Council.

*For the Resolution: Councillors Andrew, Bennett, Lane, Malicki & Shelley*

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

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

*That Council support in principle the sponsorship of \$10,000 subject to appropriate funding being identified in the December Quarterly Review.*

## **REPORTS FROM COMMITTEES**

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

File: S02110  
Meeting held 22 November 2007  
Minutes numbered KTC9 to KTC12

#### 496 **General Matter Items under Delegated Authority**

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File: S02738  
*Vide Minute No KTC9*

Advice on matters considered under Delegated Authority.

#### **Resolved:**

(Moved: Councillor Lane/Mayor, Councillor Ebbeck)

- A. That the information regarding traffic facilities approved during March 2007 to October 2007 be noted.
- B. That the delegation to Director Technical Services to approve certain traffic facilities, be transferred to Director Operations.

**CARRIED UNANIMOUSLY**

#### 497 **Meeting Dates 2008**

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File: S02110  
*Vide Minute No KTC10*

To determine Ku-ring-gai Traffic Committee meeting dates for 2008.

**Resolved:**

(Moved: Councillor Lane/Mayor, Councillor Ebbeck)

That the Ku-ring-gai Traffic Committee meetings in 2008 be scheduled for the dates shown below:

7 February  
13 March  
17 April  
22 May  
19 June  
17 July  
21 August  
18 September  
23 October  
20 November

**CARRIED UNANIMOUSLY**

498

**Kissing Point Road, Turramurra**

File: 88/05645/03  
*Vide Minute No KTC11*

Ward: Comenarra  
Electorate: Ku-ring-gai

To consider traffic conditions at the intersection of Kissing Point Road and Catalpa Crescent (north).

**Resolved:**

(Moved: Councillor Lane/Mayor, Councillor Ebbeck)

- A. That Council note the relatively low score under Council's priority ranking system of the intersection of Kissing Point Road and Catalpa Crescent (north).
- B. That the rank of the intersection of Kissing Point Road and Catalpa Crescent (north) be monitored and reported to the Committee if the ranking warrants further consideration.
- C. That signs reading "Watch for Cyclists" be placed in Catalpa Crescent (north) at Kissing Point Road, as well as in Kissing Point Road.

**CARRIED UNANIMOUSLY**

499

**Greengate Road, Killara**

File: 88/05501/03

*Vide Minute No KTC12*

Ward: Gordon

Electorate: Ku-ring-gai

To consider a request from Greengate Hotel to close a section of Greengate Road at Pacific Highway on Christmas Eve 2007.

**Resolved:**

(Moved: Councillor Lane/Mayor, Councillor Ebbeck)

That Council approve the temporary closure of Greengate Road between Pacific Highway and the eastern end of Greengate Hotel and express no objection for the closure of two north and south bound lanes on Pacific Highway in the vicinity of Greengate Hotel, on Monday, 24 December 2007, subject to:

1. The Greengate Hotel fully implementing the Roads and Traffic Authority-approved Transport Management Plan to ensure safety of the patrons and to address the traffic impacts that may result from the proposed road closure.
2. The eastbound section of Greengate Road between Pacific Highway and the eastern end of Greengate Hotel be closed from 3.00pm on 24 December and 1.00am on 25 December 2007, while the whole section be closed between 9.00pm and 1.00am in the same period.
3. The travel lanes on Pacific Highway be reduced to a single lane in both directions in the vicinity of Greengate Hotel from 9.00pm on 24 December to 1.00am on 25 December 2007.
4. The closure being advertised by Council as required by Section 116 of the Roads Act 1993 and no substantial objection to the proposal which cannot be addressed, being received by the closing date of the advertising.
5. The Applicant inform the affected residents of the proposed road closure of Greengate Road and other detour arrangements in the area on Christmas Eve 2007.
6. The Applicant providing and maintaining all necessary signs, barricades and all other safety equipment at its expense to properly effect the changed traffic conditions.
7. The Applicant placing appropriate advance warning signs on Pacific Highway to warn motorists about the closure of travel lanes on Pacific Highway.
8. The Applicant providing Council with details of liaison with the Police Local Area Command Kuring-gai in regard to providing an adequate number of suitable

identifiable personnel to control pedestrian movement across Pacific Highway on Christmas Eve 2007.

9. The Applicant engaging RTA accredited traffic controllers to monitor the road closure at all times to ensure all signs remain in place and to provide vehicular access for emergency vehicles and residents if such access is required.
10. The Greengate Hotel supply 20 million dollars public liability insurance cover, naming Ku-ring-gai Council as principal. A certificate of currency is to be sighted by Council's Director Operations or his delegate before the road closure is implemented.
11. The Greengate Hotel responds in writing to Council by Friday, 14 December 2007, regarding the acceptance of Council's conditions for the temporary closure of a section of Greengate Road and traffic alterations on Pacific Highway on Christmas Eve 2007.

**CARRIED UNANIMOUSLY**

## **GENERAL BUSINESS**

500

### **Christmas/New Year Recess Delegations**

File: S02017

To grant appropriate Delegations during the Christmas/New Year recess period.

#### **Resolved:**

(Moved: Councillors Shelley/Lane)

- A. That the Mayor, Councillor Nick Ebbeck, the Deputy Mayor, Councillor Anita Andrew and the General Manager, John McKee, be granted authority to exercise all powers, authorities, duties and functions of Council except those set out in Section 377 of the Local Government Act 1993 during the period 12 December 2007 to 4 February 2008, subject to the following conditions:
  1. Such powers, authorities and functions may only be exercised by unanimous agreement between the Mayor, Deputy Mayor and General Manager.
  2. Any such power, authority, duty or function shall only be exercised by the Mayor, Deputy Mayor and General Manager jointly where they are of the opinion that the exercise of any such power, authority, duty or function could not be deferred until the meeting of Council on 5 February 2008.
- B. That consultation subject to their availability be held with Ward Councillors on matters where they would normally be contacted before delegation is exercised.

**CARRIED UNANIMOUSLY**

501 **Parking Management Plan & Action Plan**

File: S06051

To update Council on the progress of the Parking Management Plan.

**Resolved:**

(Moved: Councillors Shelley/Cross)

That the report on the progress on the Parking Management Plan and Action Plan be received and noted.

**CARRIED UNANIMOUSLY**

502 **40 Station Street, Pymble - To Extinguish a Redundant Drainage Easement**

File: P59351

Ward: St Ives

To seek approval to extinguish a redundant Council drainage easement at No 40 Station Street, Pymble.

**Resolved:**

(Moved: Councillors Bennett/Shelley)

- A. That Council approves the extinguishment of the drainage easement traversing No. 40 Station Street, Pymble.
- B. That authority be given to affix the common seal of the Council to the appropriate instrument for the extinguishment of Easement.
- C. That the cost for extinguishment of the drainage easement and Council's legal costs and disbursements be borne by the applicant.

**CARRIED UNANIMOUSLY**



**Councillor Anderson declared a pecuniary interest  
in respect of the following item -  
Item GB.2 - Bradfield Park Pre-School & Childcare Centre  
and withdrew from the Chamber taking no part  
in discussion and voting on the item**

503     **Bradfield Park Pre-School & Childcare Centre**

File: P36250

To advise Council of the Bradfield Park Pre-school and Childcare Centre Management Committee's proposal to transfer management of the centre to KU Children's Services and, to seek Council's approval to grant a lease to KU Children's Services for 51-53 Bradfield Road, West Lindfield.

**Resolved:**

(Moved: Councillors Shelley/Lane)

- A. That a lease be granted to KU Children's Services (Bradfield Park Childcare Centre and Pre-school) for 51-53 Bradfield Road, West Lindfield for a period of three (3) years in the terms outlined in the report.
- B. That this approval is subject to the conditions under section 47A of the Local Government Act and that Council issue a Public Notice as prescribed under the Act.
- C. That the Mayor and General Manager be authorised to execute all necessary lease documents.
- D. That the Council Seal be affixed to the Lease Agreement.

**CARRIED UNANIMOUSLY**

**Councillor Anderson returned**

504     **Bushland, Catchments & Natural Areas Reference Group – Minutes of Meeting held 15 October 2007**

File: S03448

To bring to the attention of Council the proceedings from the Bushland, Catchments and Natural Areas Reference Group meeting held on Monday, 15 October 2007.

**Resolved:**

(Moved: Councillors Malicki/Lane)

That the Minutes of the Bushland, Catchments & Natural Areas Reference Group Meeting of Monday, 15 October 2007 and attachments be received and noted.

**CARRIED UNANIMOUSLY**

505

**Amendments to Development Control Plan No 56 - Notification**

File: S03673

To present to Council Draft Development Control Plan No 56 - Notification for consideration and adoption.

**Resolved**

(Moved: Councillors Bennett/Malicki)

- A. That Draft Development Control Plan No 56 – Notification be adopted.
- B. That a notice be placed in the local paper in accordance with the Environmental Planning Assessment Regulation 2000.
- C. That the Department of Planning be notified of Council's decision in accordance with the Environmental Planning Assessment Regulation 2000.
- D. That reference in the existing DCP to proposed conservation areas, remain and further that an appropriate definition of proposed conservation areas be developed by staff.

**CARRIED UNANIMOUSLY**

*The above Resolution was subject to an Amendment which was CARRIED. The Original Motion was:*

*(Moved: Councillors Lane/Cross)*

- A. *That Draft Development Control Plan No 56 – Notification be adopted.*
- B. *That a notice be placed in the local paper in accordance with the Environmental Planning Assessment Regulation 2000.*
- C. *That the Department of Planning be notified of Council's decision in accordance with the Environmental Planning Assessment Regulation 2000.*

506 **Draft Planning Agreement Policy**

File: S06198

To put forward to Council, a Draft Planning Agreement Policy for Council to review and adopt for exhibition.

**Resolved:**

(Moved: Councillors Bennett/Cross)

That the matter be deferred until after C1 in Confidential section.

**CARRIED UNANIMOUSLY**

507 **Sustainability Reference Group**

File: S05396

For Council to constitute the Sustainability Reference Group and appoint its inaugural members.

**Resolved:**

(Moved: Councillors Shelley/Lane)

That Council endorse the appointment of the fifteen (15) nominees for the Sustainability Reference Group as outlined below:

1. John Balint
2. Cecil Blumenthal
3. Andrew Daff
4. Jacqueline Harvey
5. Janet Harwood
6. Steven Holland
7. Caspar Lewis
8. Jenny Middleton
9. Bernadette Pinnell
10. Professor Andy Pitman
11. Professor Ron Rapee
12. Angela Rozali
13. Elijah Swift
14. Giles Tabuteau
15. Associate Professor Mark Taylor

**CARRIED UNANIMOUSLY**

508 **Hassell Park Night Game - Sports Ground Plan of Management**

File: S02285

For Council to consider the public exhibition of draft amendments to the Sports Grounds Generic Plan of Management.

**Resolved:**

(Moved: Councillors Shelley/Bennett)

- A. That section 3.18 of the Sports Grounds Generic Plan of Management be amended to allow early evening competition sport to be played at Hassell Park, St Ives on Saturdays from 8.00am to 7.30pm on up to nine Saturdays per season, with all players and supporters to vacate the facility by 9.00pm.
- B. That the draft amendments be placed on public exhibition for a period of 42 days.
- C. That the results of the public exhibition be reported back to Council in February 2008 for Council to consider adoption of the amended Sports Grounds Generic Plan of Management.
- D. That, if the draft amendments are adopted, parking restriction signs in surrounding streets be amended to reflect the additional Saturday use of Hassell Park.

**CARRIED UNANIMOUSLY**

**BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION**

Councillor Anderson advised Council that the UTS Site is currently being assessed by the State Government under Part 3A. She advised that Council urgently consider the involvement of the Aboriginal Heritage Officer.

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

509 **UTS Site - Request Involvement of the Aboriginal Heritage Office**

File: P42604

**Resolved:**

(Moved: Councillors Anderson/Shelley)

That Council request the involvement of the Aboriginal Heritage Office, through its role in Development assessment and review of DAs, to undertake a review of the CRI

Indigenous Heritage Issues Report prepared for the UTS Ku-ring-gai Re-zoning Application and to provide recommendations to accompany Council submission on this review and on any matter pertaining to the re-zoning of UTS Ku-ring-gai and its impact on Aboriginal heritage.

**CARRIED UNANIMOUSLY**

**QUESTIONS WITHOUT NOTICE**

510 **Damage to Monument in Wahroonga**

File: DA1589/01-002

Question Without Notice from Councillor J Anderson

Can Council staff provide to Councillors and to the Heritage Advisory Committee, a report concerning the damage done to the Fisk monument in Wahroonga by an adjoining resident and include advice upon any possible remediation of the damage?

**Answer by the General Manager**

The Manager Urban Planning, Mr Fabbro, will provide advice to Councillors.

511 **Parking Information & Briefing Session - 5 December 2007**

File: S06051

Question Without Notice from Councillor L Bennett

How were the residents invited to the Parking Information and Briefing Session (5 December 2007) selected?

**Answer by the Manager Urban Planning**

Mr Fabbro advised that representatives on Council's database and members of the Chambers of Commerce were notified and invited to attend.

512 **Aboriginal Sites - Sydney Adventist Hospital Site, Wahroonga**

File: S03213

Question Without Notice from Councillor A Andrew

Can staff obtain input from the Aboriginal Heritage Office on sites of significance within the greater SAN at Wahroonga?

**Answer by the Manager Urban Planning**

The information will be considered and included in Council's response on the SAN Hospital site at Wahroonga.

**513 Housing Shortage - Federal Government**

File: S02658

Question Without Notice from Councillor M Shelley

Would the General Manager or appropriate Director liaise with the Federal Government which has answered that it will direct itself of 300 sites in NSW to assist in easing the housing shortage via making more land available - as the Commonwealth has considerable land holdings in Ku-ring-gai (particularly in Roseville Ward) and would the General Manager find out whether any of these sites in Ku-ring-gai are likely to be made available for sale?

**Answer by the Mayor**

The General Manager will liaise with the Federal Government on release of land holdings.

**Answer by the General Manager**

Staff in Strategy will provide the information to Councillors.

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

**514 Tender for the Provision of Legal Services**

*(Section 10(2)(d)(i) - Commercial Information of a Confidential Nature that would, if disclosed, prejudice the commercial position of the person who supplied it)*

File: S05138

Report by Corporate Lawyer, Director Development & Regulation, Director Corporate & General Manager dated 12 November 2007.

**Resolved:**

(Moved: Councillors Shelley/Lane)

- A. That the following firms be included on Council's panel on a non-exclusive basis, in accordance with their respective tender submissions:

Abbott Tout/ Home Wilkinson Lowry  
Deacons  
Matthews Folbigg  
MLJ Lawyers  
DLA Phillips Fox  
Wilshire Webb

- B. That each firm be notified in writing of its inclusion on Council's panel.
- C. That the performance of the above firms be reported at the same time as Land & Environment Court costs for end-of-year 2007-2008.

**CARRIED UNANIMOUSLY**

515

**Draft Planning Agreement Policy**

*(Section 10A(2)(g) - Advice concerning litigation)*

File: S06198

To put forward to Council, a Draft Planning Agreement Policy for Council to review and adopt for exhibition.

**Resolved:**

[Moved: Councillors Bennett/Cross]

That legal advice in the terms discussed be sought.

**CARRIED UNANIMOUSLY**

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

- A. *That the Draft Planning Agreement Policy 2008 be adopted for non-statutory exhibition in February 2008.*
- B. *That a further report be presented to Council after the close of the exhibition period.*

*The Meeting closed at 8.42pm*

The Minutes of the Ordinary Meeting of Council held on 4 December 2007 (Pages 1 - 15) were confirmed as a full and accurate record of proceedings on 11 December 2007.

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General Manager

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Mayor / Chairperson