

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 17 DECEMBER 2024

- Present: The Mayor, Councillor Christine Kay (Chairperson)
Councillors M Devlin & J Pettett (Comenarra Ward)
Councillors I Balachandran & B Ward (Gordon Ward)
Councillor S Ngai (Roseville Ward)
Councillor M Smith (St Ives Ward)
Councillors C Spencer & K Wheatley (Wahroonga Ward)
- Staff Present: General Manager (David Marshall)
Director Community (Janice Bevan)
Director Corporate (Angela Apostol)
Director Development & Regulation (Michael Miocic)
Director Operations (Peter Lichaa)
Acting Director Strategy & Environment (Jacob Sife)
Corporate Lawyer (Jamie Taylor)
Manager Corporate Communications (Virginia Leafe)
Acting Team Leader Governance (Jane Fitzpatrick)
Coordinator Executive Support (Sigrid Banzer)
- Others Present: Antony Fabbro (Manager Urban & Heritage Planning)
Rathna Rana (Executive Urban Planner)
Craig Wyse (Team Leader Urban Planning)

The Meeting commenced at 7:00PM

The Mayor offered the Acknowledgement of Country and Prayer

233

APOLOGIES

File: S02194

Councillor Spencer advised of an apology from Councillor Taylor as he is on leave.

The General Manager advised of an apology from the Director of Strategy & Environment, Andrew Watson, due to being on leave with Jacob Sife acting as Director.

Resolved:

(Moved: Councillors Wheatley/Pettett)

That the apologies be accepted and leave of absence granted.

CARRIED UNANIMOUSLY

DECLARATIONS OF INTEREST

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

Councillor Wheatley declared a non-significant, non-pecuniary interest in GB.13 Public EV Charging Proposals - NSW Kerbside Charging Program Round 1 as she has had business dealings with this company. Councillor Wheatley will be leaving the room during debate on this item.

Councillor Ward declared a non-significant, non-pecuniary interest in GB.2 Ku-ring-gai Community Grants Program - Request to Reallocate Grant Funds as she serves on the board of SHARE SMR Inc. Councillor Ward will be leaving the room during debate on this item.

DOCUMENTS CIRCULATED TO COUNCILLORS

The Mayor referred 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:

Confidential Memorandums: A confidential memorandum for item GB.11 Legal advice from Shaw Reynolds Re: Low and Mid-rise Housing SEPP Dual Occupancy Provisions for Ku-ring-gai Council LEP 2015 was circulated to the Mayor and Councillors on 9 December 2024.

234

CONFIRMATION OF ATTACHMENTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499/9

Resolved:

(Moved: Councillors Balachandran/Smith)

GB.6 RFT2-2024 Playspace Upgrade Lorraine Taylor Reserve

In accordance with 10A(2)(d)(i):

Attachment 1: RFT2-2024 Playspace Upgrade Lorraine Taylor Reserve – List of Submitters

Attachment 2: RFT2-2024 Playspace Upgrade Lorraine Taylor Reserve – Tender Evaluation Report

GB. 7 RFT34-2024 Design and Construct 25M Indoor Pool Refurbishment KFAC

In accordance with 10A(2)(d)(i):

Attachment 1: RFT34-2024 Design and Construct 25M Indoor Pool Refurbishment KFAC – List of Submitters

Attachment 2: RFT34-2024 Design and Construct 25M Indoor Pool Refurbishment KFAC – Tender Evaluation Report

GB.13 Public EV Charging Proposals - NSW Kerbside Charging Program Round 1

In accordance with 10A(2)(d)(i):

Attachment 5: EVIE Networks Proposed Commercial Rates – April 2024

CARRIED UNANIMOUSLY

CONFIRMATION OF MINUTES

235

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 26 November 2024

Minutes numbered 212 to 232

Resolved:

(Moved: Councillors Spencer/Ward)

That Minutes numbered 212 to 232 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

Nil.

PETITIONS

236

16 Burns Road & 81 Coonanbarra Road, Wahroonga, Application eDA0478/24 - Long Day Care Centre

File: EM00043/11/1

Vide: PT.1

Petition to Ku-ring-gai Council

Application No: eDA0478/24

Applicant: Architectural Projects Pty Limited

Property: 16 Burns Road & 81 Coonanbarra Road WAHROONGA NSW 2076

The size and scale of the proposed development (84 children, 15 staff, 1½ levels above ground/ 2 level underground parking for 18 vehicles) does not fit within the established character of a heritage conservation area and is considered out of context for the locality. This development is not suitable in a low- density residential area and does not meet minimum regulatory requirements in its current form.

Burns Road and Coonanbarra Road are already at capacity for parked cars and traffic, with over 6,000 students attending 12 separate campuses within 1km of the subject development together with commuters parking to access the railway station 500m from the site. Double parking, blocked driveways and pedestrian near-misses are already a daily occurrence in the area, and this will be further exacerbated through additional street parking and traffic. Access to the Centre's underground parking is only 50 metres from the Burns/ Coonanbarra Rd's intersection.

The proposed development includes a shortfall of on-site car parking (relative to the minimum requirement). Further, relying upon 18 very tight basement car parking spaces for drop off and staff over two levels with scissor-lift access for staff parking in this location is not appropriate. Many parents attending child-care centres are reluctant to use difficult basement level/ underground car parking and will seek to use on-street car parking, which is extremely limited in this location.

As a long day care facility operating from 7:00am to 6:00pm within 500 metres of Wahroonga Rail station, a large proportion of parents attending the centre will park.

Restricting resident parking and creating further congestion through the addition of 50 to 100 additional vehicles.

External outdoor open play spaces are minimal and in one case severely compromised by a 22m high Japanese Cedar. This centre is akin to a "battery- hen" style operation – on a residential block. As this development site is currently too small to subdivide into two residences within this LGA to accommodate two families, it is clearly totally inappropriate to accommodate 200 plus children, staff, carers, visitors and parents each day.

The proposed development has several areas of concern and non-compliance including insufficient setback from neighbouring properties, insufficient on- site parking (does not meet minimum requirements), significant loss of 18 trees within the DA and an inevitable future amendment must include the removal of the 22m Japanese Cedar that currently dominates the block using safety concerns for the 99 children and staff (plus parents and visitors) underneath its expansive canopy.

The proposed development relies upon restrictive management measures in attempting to achieve compliance with acoustic requirements. This is indicative of the size and scale of the proposed development being more suited to existing commercial/retail centres, next to schools or on major roads. The rear of the development sits well above the neighbouring fence lines on the northern and western boundaries with no capacity to mitigate the acoustic impact of 84 children,

15 staff and a significant number of parents and carers attending the site daily following the removal of almost all vegetation.

The addition of 8 x 660 litre industrial waste bins each week from the Centre will create further aesthetic and traffic parking issues on Burns Road. A standard, red-lidded residential garbage bin is only 120 litres so this is equivalent to 44 residential bins.

The modern concrete industrial design is inconsistent with surrounding low density period homes in a Heritage Conservation Area including Listed 1898 item "Hazeldean" next door where its curtilage and heritage integrity will be severely compromised through the removal of all trees along its boundary and its proximity to the new contemporary building and parking access. There are four (4) additional Listed items within 50 metres of this development - opposite the site at 17 Burns Rd and 25 Burns Rd and 81A and 83 Coonanbarra Rd. The underground car park will be directly on the Hazeldean boundary line, and the building above has minimal (and non-compliant) setback in places.

The proposed development results in a substantial impact on the privacy of neighbours, in particular, residents of "Hazeldean" 14 Burns Road, 16A Burns Road, 81 and 81a Coonanbarra Rd, particularly to the rear of the site where the block falls away and proposed rooms/ play areas will overlook neighbouring properties with no privacy mitigation.

The developer has already completed unauthorised storm water building works at 81 Coonanbarra Rd without Council consent – suggesting potential compliance issues in future should the development proceed.

Accordingly, by adding my name and address to this petition, I confirm I am a resident living within the Ku-ring-gai Council LGA, I object to the proposed development, I authorise Change.org to provide my contact details to the Petitioner and Ku-ring-gai Council and urge Ku-ring-gai Council to reject the Development Application submitted.

(319 signatures).

Resolved:

(Moved: Councillors Wheatley/Devlin)

That the petition be received and referred to the appropriate Officer of Council for attention.

CARRIED UNANIMOUSLY

GENERAL BUSINESS

237

Code of Conduct - Complaint Statistics

File: S08447
Vide: GB.1

To report statistics in relation to complaints as required by the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW 2020 for the twelve months to 31 August 2024.

Resolved:

(Moved: Councillors Spencer/Pettett)

That the report pursuant to Part 11 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW 2020 be received and noted

CARRIED UNANIMOUSLY

238 **Investment Report as at 30 November 2024**

File: FY00623/7
Vide: GB.3

To present Council's investment portfolio performance for November 2024.

Resolved:

(Moved: Councillors Spencer/Pettett)

That:

- A. The summary of investments and performance for November 2024 be received and noted.
- B. The Certificate of the Responsible Accounting Officer be noted and the report adopted.

CARRIED UNANIMOUSLY

239 **Project Status Report - November 2024**

File: FY00621/7
Vide: GB.4

To provide Council with the Project Status Report for August – November 2024.

Resolved:

(Moved: Councillors Spencer/Pettett)

- A. That Council receive and note the Project Status Report for the period August - November 2024.
- B. That the Project Status Report be placed on Council's website.

CARRIED UNANIMOUSLY

240

Ku-ring-gai Traffic Committee Meeting Dates for 2025

File: CY00022/16

Vide: GB.5

To determine the Ku-ring-gai Traffic Committee meeting dates for 2025.

Resolved:

(Moved: Councillors Spencer/Pettett)

- A. That the Ku-ring-gai Traffic Committee meetings in 2025 be scheduled for the dates as follows:
 - 26 February 2025
 - 28 May 2025
 - 27 August 2025
 - 26 November 2025
- B. That Ku-ring-gai Traffic Committee meetings are held only as required.

CARRIED UNANIMOUSLY

241

RFT2-2024 Playspace Upgrade Lorraine Taylor Reserve

File: RFT2-2024/R

Vide: GB.6

To consider the tenders received for RFT2-2024 Playspace Upgrade Lorraine Taylor Reserve St Ives and to appoint the preferred tenderer.

Resolved:

(Moved: Councillors Spencer/Pettett)

That:

- A. Council accepts the tender submission from Tenderer 'A' to carry out the Playspace Upgrade Lorraine Taylor Reserve St Ives.
- B. The Mayor and General Manager be delegated authority to execute all tender documents on Council's behalf in relation to the contract.
- C. The Seal of Council be affixed to all necessary documents.
- D. All tenderers be advised of Council's decision in accordance with Clause 178 of the Local Government Tendering Regulation 2021.

CARRIED UNANIMOUSLY

242

**RFT34-2024 Design and Construct - 25M Indoor pool refurbishment
KFAC**

File: RFT34-2024/R

Vide: GB.7

To consider the tenders received for RFT34-2024 Design and Construct 25M Indoor Pool Refurbishment KFAC and to appoint the preferred tenderer.

Resolved:

(Moved: Councillors Spencer/Pettett)

That:

- A. As a result of considering the tenders submitted for the proposed RFT34-2024 Design and construction 25M Indoor Pool Refurbishment KFAC contract, and pursuant to Clause 178(1) of the Local Government (General) Regulation 2021 ("the Regulation"), Council declines to accept any of the tenders.
- B. Fresh tenders as referred to in clause 178(3)(b)-(d) of the Regulation not be invited due to the current deadlines and condition of the pool.
- C. Pursuant to Clause 178(3)(e) of the Regulation, the General Manager enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender in terms acceptable to Council's requirements.
- D. The Mayor and the General Manager be delegated authority to execute all documents on Council's behalf in relation to any contract formed as a result of the above.
- E. The Seal of Council be affixed to all necessary documents.
- F. All tenderers be advised of Council's decision in accordance with clause

178 of the Regulation.

CARRIED UNANIMOUSLY

243 **Heritage Reference Committee meeting minutes of 7 November 2024**

File: CY00413/12

Vide: GB.8

To have Council consider the minutes from previous Heritage Reference Committee ('HRC') meeting held on 7 November 2024.

Resolved:

(Moved: Councillors Spencer/Pettett)

That Council receive and note the HRC minutes from the meeting held on 7 November 2024.

CARRIED UNANIMOUSLY

244 **Ku-ring-gai Green Grid Draft Strategy**

File: S12691

Vide: GB.9

To provide an overview of the draft Ku-ring-gai Green Grid Strategy and seek Council's endorsement to place the draft strategy on public exhibition.

Resolved:

(Moved: Councillors Spencer/Pettett)

That Council endorse the draft Ku-ring-gai Green Grid Strategy for public exhibition

CARRIED UNANIMOUSLY

245 **Affordable Housing Options Paper and Draft Affordable Housing Policy**

File: S12139-12

Vide: GB.10

For Council to consider the Affordable Housing Options Paper and Draft Ku-ring-gai Affordable Housing Policy for public exhibition.

Resolved:

(Moved: Councillors Spencer/Pettett)

- A. To advance Ku-ring-gai's affordable housing objectives Council pursue the implementation of:
 - 1. An Affordable Housing Policy;
 - 2. An Affordable Housing Contributions Scheme.
- B. The Draft Affordable Housing Policy (**Attachment A2**) be placed on public exhibition for a period of 28 days. A report is to be brought back to Council to consider any feedback on the Draft Policy.
- C. The Affordable Housing Options Paper (**Attachment A1**) and the Education Brochure (**Attachment A3**) be made available as a supporting study to the public exhibition of the Draft Affordable Housing Policy
- D. That prior to exhibition the Director of Strategy and Environment be given the authority to make minor changes of a typographical nature that do not alter the overall content to any significant degree

CARRIED UNANIMOUSLY

After having declared an interest in item GB.13, Councillor Wheatley withdrew from Chambers during discussion and did not vote on the matter.

246

Public EV Charging Proposals - NSW Kerbside Charging Program Round 1

File: S13127

Vide: GB.13

This report presents the community consultation results for five (5) EVIE Networks site proposals that have been awarded Round 1 funding. This report also recommends which of these site proposals to progress through planning assessments, based on the community consultation results.

Resolved:

(Moved: Councillors Spencer/Ngai)

- A. That Council progresses the necessary approval assessments and negotiation of commercial terms required for development of the site proposals at:
 - 1. 9 Coonanbarra Road, Wahroonga;
 - 2. 2-8 Turramurra Avenue and Gilroy Lane, Turramurra;
 - 3. 1 Reading Avenue, East Killara; and
 - 4. 2 Lord Street, Roseville.

- B. Subject to assessment and negotiation of commercial terms, that Council approves the development and installation of the proposed chargers for the above sites.

CARRIED UNANIMOUSLY

Councillor Wheatley returned to Chambers.

After having declared an interest in item GB.2, Councillor Ward withdrew from Chambers during discussion and did not vote on the matter.

247 **Ku-ring-gai Community Grants Program - Request to Reallocate Grant Funds**

File: FY00432/15
Vide: GB.2

For Council to consider a request from SHARE Inc. to reallocate grant funding, which was initially awarded for a Diwali celebration in October 2024, to a Holi Festival event proposed for February 2025.

MOTION:

(Moved: Councillors Spencer/Pettett)

That the request for the funds to be reallocated be refused and refunded to Council.

AMENDMENT:

(Moved: Councillors Smith/Wheatley)

- A. That Council approve the request from SHARE Inc to reallocate \$2,300 Community Grant funding for a Diwali event in October 2024, to a Holi festival celebration proposed for March 2025.
- B. That SHARE Inc be notified of Council's decision.

Councillor Balachandran moved a Procedural Motion asking the Mayor to seek a vote on the matter as there had been 2 speakers For and 2 Against.

The Procedural Motion was put and **CARRIED UNANIMOUSLY**.

The Amendment was put and declared **CARRIED**.

For the Amendment:

*Councillors Balachandran, Devlin, Ngai,
Smith and Wheatley*

Against the Amendment: The Mayor, Councillor Kay, Pettett and Spencer

The Motion was put and declared **CARRIED**.

For the Motion: Councillors Balachandran, Devlin, Ngai, Smith and Wheatley

Against the Motion: The Mayor, Councillor Kay, Pettett and Spencer

Resolved:

(Moved: Councillors Smith/Wheatley)

- A. That Council approve the request from SHARE Inc to reallocate \$2,300 Community Grant funding for a Diwali event in October 2024, to a Holi festival celebration proposed for March 2025.
- B. That SHARE Inc be notified of Council's decision.

For the Resolution: Councillors Balachandran, Devlin, Ngai, Smith and Wheatley

Against the Resolution: The Mayor, Councillor Kay, Pettett and Spencer

Councillor Ward returned to Chambers.

248

Low and Mid-Rise Housing SEPP Proposed Dual Occupancy Provisions for Ku-ring-gai Local Environmental Plan 2015

File: S14428
Vide: GB.11

To seek Council's support to progress discussions with State government on the dual occupancy component of the *Low and Mid-rise Housing* reforms, namely on minimum lot sizes.

MOTION:

(Moved: Councillors Spencer/Pettett)

- A. That it be noted that this report only concerns the dual occupancy provisions of the Low and Mid-Rise Housing SEPP and excludes provisions relating to other housing types such as townhouses, terraces, two storey apartment blocks and mid-rise apartment blocks which the NSW Government has not yet commenced.
- B. That Council present the three minimum lot size Options within this report to

the Department of Planning, Housing and Infrastructure to progress the next steps, including community consultation.

- C. That the following steps be taken by Council staff following Council's Resolution:
 - i. meet with DPPI to discuss the proposed Options;
 - ii. conduct a public exhibition of the Options, or variations of the Options, that are supported by DPPI.
- D. That the public exhibition results be reported to Council to seek Council's endorsement of a final minimum lot size.
- E. The adopted minimum lot sizes for dual occupancy include a provision for the requirement of an 18 metre minimum lot width.
- F. That the Director Strategy and Environment be given delegation to correct errors and improve clarification upon advice of the consultant Hill Thalys, that do not alter the direction of the Options.

The Motion was put and **CARRIED UNANIMOUSLY**.

Resolved:

(Moved: Councillors Spencer/Pettett)

- A. That it be noted that this report only concerns the dual occupancy provisions of the Low and Mid-Rise Housing SEPP and excludes provisions relating to other housing types such as townhouses, terraces, two storey apartment blocks and mid-rise apartment blocks which the NSW Government has not yet commenced.
- B. That Council present the three minimum lot size Options within this report to the Department of Planning, Housing and Infrastructure to progress the next steps, including community consultation.
- C. That the following steps be taken by Council staff following Council's Resolution:
 - i. meet with DPPI to discuss the proposed Options;
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- D. That the public exhibition results be reported to Council to seek Council's endorsement of a final minimum lot size.
- E. The adopted minimum lot sizes for dual occupancy include a provision for the requirement of an 18 metre minimum lot width.
- F. That the Director Strategy and Environment be given delegation to correct errors and improve clarification upon advice of the consultant Hill Thalys, that do not alter the direction of the Options.

CARRIED UNANIMOUSLY249 **Draft Terms of Reference - Environment Committee and Smart Transport Advisory Committee**

File: S14696

Vide: GB.12

For Council to consider the draft Terms of Reference of the Environment Committee and the Smart Transport Advisory Committee for adoption and to make appointments to these committees.

MOTION:

(Moved: The Mayor, Councillor Kay/Wheatley)

That Council:

- A. adopt the Environment Committee and Smart Transport Advisory Committee Terms of Reference
- B. survey the members of the previous Sustainable Recreation and Active Transport Committees to improve effectiveness and governance for the newly formed committees
- C. seek expressions of interest for community membership, and report recommendations back to Council by 8 April 2025
- D. appoint a Chairperson and Deputy Chairperson when community membership recommendations are brought back to Council, and
- E. make any required changes to the Advisory and Reference Committee Guidelines

The Motion was put and **CARRIED UNANIMOUSLY**.

Resolved:

(Moved: Councillors Kay/Wheatley)

That Council:

- A. adopt the Environment Committee and Smart Transport Advisory Committee Terms of Reference
- B. survey the members of the previous Sustainable Recreation and Active Transport Committees to improve effectiveness and governance for the newly formed committees

- C. seek expressions of interest for community membership, and report recommendations back to Council by 8 April 2025
- D. appoint a Chairperson and Deputy Chairperson when community membership recommendations are brought back to Council, and
- E. make any required changes to the Advisory and Reference Committee Guidelines

CARRIED UNANIMOUSLY

BUSINESS WITHOUT NOTICE – SUBJECT TO CLAUSE 9.3 OF CODE OF MEETING PRACTICE

Nil.

QUESTIONS WITH NOTICE

Nil.

INSPECTIONS– SETTING OF TIME, DATE AND RENDEZVOUS

Nil.

The Meeting closed at 8.11pm

The Minutes of the Ordinary Meeting of Council held on 17 December 2024 (Pages 1 - 15) were confirmed as a full and accurate record of proceedings on <Insert confirmation date ...>

General Manager

Mayor / Chairperson