

## MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 21 MAY 2024

Present: The Mayor, Councillor S Ngai (Chairperson)  
Councillors J Pettett & G Taylor (Comenarra Ward)  
Councillors S Lennon & B Ward (Gordon Ward)  
Councillor A Taylor (Roseville Ward)  
Councillors C Kay & M Smith (St Ives Ward)  
Councillor K Wheatley (Wahroonga Ward)

Staff Present: General Manager (David Marshall)  
Acting Director Community (Danny Houseas)  
Acting Director Corporate (Angela Apostol)  
Director Development & Regulation (Michael Miocic)  
Acting Director Operations (Peter Lichaa)  
Director Strategy & Environment (Andrew Watson)  
Corporate Lawyer (Jamie Taylor)  
Manager Corporate Communications (Virginia Leafe)  
Manager Governance and Corporate Strategy (Christopher M Jones)  
Governance Support Officer (Nicole Kratochvil)  
Group Lead Major Projects (Geoffrey Douglas)

*The Meeting commenced at 7:01PM*

The Mayor offered the Acknowledgement of Country and Prayer

84

### **APOLOGIES**

File: S02194

The Mayor advised of an apology from Councillor Spencer due to illness.

The General Manager advised of an apology from the Director Community, Janice Bevan, due to being on leave with Danny Houseas Acting as Director Community.

### **Resolved:**

(Moved: The Mayor, Councillor Ngai)

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.

Cr Wheatley declared a non-significant, non-pecuniary interest in NM.6 – Support for Pymble Ladies College due to her family connections with the school. Councillor Wheatley will leave the Chambers 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:

- Late Items:**
- MM.2 - Housing Policy Updates (May 2024)** - Mayoral Minute from the Mayor, 21 May 2024
  - GB.11 - Low and mid-rise housing policy - Feedback to NSW Department of Planning, Housing & Infrastructure** - Report by Director Strategy & Environment dated 7 May 2024 with attachments.
- Memorandums:**
- QN.1** Memorandum to Mayor, Councillors and General Manager from Director Strategy & Environment dated 6 May 2024 Re: What is Council's position on environmental issues at the North Turramurra Recreation Area ("NTRA") and if leased will the lessee be legally responsible?
  - QN.2** Memorandum to Mayor and Councillors from General Manager dated 20 May 2024 Re: Response to Councillors - QN.2 Norman Griffiths Oval
  - QN.3** Memorandum to Mayor, Councillors and General Manager from Director Strategy & Environment dated 15 May 2024 Re: Stranded Heritage Items in Transport Oriented Development Precincts

85

## CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499/9

### Resolved:

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 Ku-ring-gai Hub Projects Status - Confidential Update**

In accordance with 10A(2)(c), (d)(i) and (d)(ii)

**CARRIED UNANIMOUSLY**

**CONFIRMATION OF MINUTES**86 **Minutes of Ordinary Meeting of Council**

File: EM00043/3

Meeting held 16 April 2024

Minutes numbered 60 to 79

**Resolved:**

(Moved: Councillors Smith/Lennon)

That Minutes numbered 60 to 79 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

**CARRIED UNANIMOUSLY**

87 **Minutes of Extraordinary Meeting**

File: S02131

Meeting held 1 May 2024

Minutes numbered 80 to 81

**Resolved:**

(Moved: Councillors Smith/Lennon)

That Minutes numbered 80 to 81 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**88 **Vale John Krummel - Former Artistic Director, Marian Street Theatre**

File: CY00455/12

*Vide: MM.1*

It is my sad duty to inform my Councillor colleagues and the community of the death of one of Ku-ring-gai 's cultural leaders.

John Krummel was the Artistic Director of the Marian Street Theatre Company for two vital periods in the 1980s and 1990s. He was the theatre company's longest-serving, best-known and most successful leader and played a major role in restructuring the theatre's finances at this time.

John Krummel was born in Broken Hill in 1943 and soon after his family moved to Wagga Wagga. It was during his childhood that John decided he wanted to be an

actor, becoming fascinated by the actor Charles Laughton at the age of nine.

After leaving school, John Krummel enrolled in the National Institute of Dramatic Art (NIDA) in 1962. He appeared in his first play in 1968, performing a memorable role as a Vietnam veteran haunted by his wartime experiences. In the same year he became one of the leading actors in the play Boys in the Band which ran for two years, despite attracting controversy at the time.

By the mid 1970s, John had moved to Melbourne and it was there he gained valuable experience under his mentor John Sumner on running a subsidised theatre. He also spent time in Brisbane learning how to direct plays and was subsequently invited to become the Queensland Theatre Company's resident director.

In 1982, John Krummel became artistic director of Marian Street Theatre and the theatre quickly became popular with north shore residents for attracting actors such as Googie Withers and Tony Sheldon, as well as providing opportunities for recent NIDA graduates and local talent such as Georgie Parker. Marian Street also became known for the quality of its plays, hosting productions by writers as varied as Eugene O'Neill and Alan Ayckbourn.

John Krummel first left the theatre after nine years as its manager in 1990, with over 5000 subscribers and a healthy bank balance. Five years later he was recalled to restructure the theatre's finances to prevent its collapse. The HIH Insurance company eventually became the theatre's main sponsor, funding Marian Street for three years. Despite suffering a stroke, John Krummel still managed to lead the theatre for four more years until the collapse of HIH Insurance in 2001.

John was an extraordinary actor, director and theatre manager and his work was well recognised by his peers through several awards. Despite the financial obstacles and his own health challenges, John Krummel was devoted to giving the Ku-ring-gai community high-quality live theatre. His influence on generations of actors is still felt today.

On behalf of the Council and our community, I offer sincere condolences to John Krummel's family and friends. May he rest in peace.

### **Resolved:**

(Moved: The Mayor, Councillor Ngai)

- A. That the Mayoral Minute be received and noted.
- B. That we stand for a minute's silence to honour John Krummel
- C. That the Mayor write to John Krummel's family and encloses a copy of the Mayoral Minute.

**CARRIED UNANIMOUSLY**

*Councillor Wheatley departed from and returned to the Meeting during discussion on the following item.*

89 **Housing Policy Updates (May 2024)**

File: S14427

*Vide: MM.2*

This Mayoral Minute provides an update on local activity regarding the State Government's housing policies since the Extraordinary Meeting of 8 May.

As resolved at the Extraordinary Meeting, Council has commenced studies around the four Transport Oriented Development ('TOD') precincts of Gordon, Killara, Lindfield and Roseville to explore better resident outcomes than what was imposed on 13 May. The studies, scenario analysis and community engagement will be presented before Councillors within nine months for a decision, noting that this is already more compressed than the timeframes recommended by the Department for amending a Local Environment Plan. It is hoped that the scenarios will support the protection of key heritage conservation areas while improving urban canopy outcomes.

At the same Extraordinary Meeting, Council also resolved to commence proceedings in the NSW Land and Environment Court concerning the TOD provisions in the Housing SEPP. This is not our preferred course of action but has become necessary due to the circumstances. More information will be provided as it becomes available.

The TOD precincts commenced on 13 May and impact 23 of Ku-ring-gai's Heritage Conservation Areas.

- C12 Gordondale Estate Conservation Area
- C13 Roberts Grant Conservation Area
- C15 Gordon Park Estate McIntosh / Ansell Grant Conservation Area
- C16 St Johns Avenue Conservation Area
- C17 Gordon Park Conservation Area
- C18 Yarrabah Avenue Conservation Area
- C39 Robert Street / Khartoum Avenue Conservation Area
- C20 Greengate Estate Conservation Area
- C21 Springdale Conservation Area
- C22 Crown Blocks Conservation Area
- C23 Lynwood Avenue Conservation Area
- C24 Marian Street Conservation Area
- C25 Stanhope Road Conservation Area
- C26 Oliver Grant Conservation Area
- C27 Belnheim Road Conservation Area
- C28 Wolseley Road Conservation Area
- C29 Balfour Street / Highfield Road Conservation Area
- C30 Lindfield West Conservation Area / C30 Frances Street Conservation Area
- C31 Trafalgar Avenue Conservation Area
- C42 Middle Harbour Road Conservation Area
- C32 Clanville Conservation Area
- C35 The Grove Conservation Area
- C36 Lord Street / Bancroft Avenue Conservation Area

As for resident responses within the TOD precincts, Councillors have heard reports which typically fall within four categories.

- 1) Some residents are receiving unsolicited and unwelcomed correspondence from developers seeking to acquire their property.
- 2) Other residents have come together to seek sale of a consolidated site.
- 3) We have residents living in heritage listed items who are concerned of being surrounded by 22m high developments and the implications this has for light, amenity, and privacy. An answer to their concerns will be provided as part of Question with Notice #3 later tonight.
- 4) We have residents on the fringe of the 400m circle asking why their properties were excluded from the TOD when their neighbours in the same street block have been included. To this I would say that the state government's site selection is based on a fixed circle rather than a detailed attempt at planning the best outcome for each suburb.

As of 13 May, landowners have been able to lodge Development Applications within the TOD precincts, though none have been received to date.

Yesterday the Ku-ring-gai Planning Panel considered a planning proposal for 345 Pacific Highway to be redeveloped at heights of 12-15 storeys and FSR ranging 3.5:1 to 4.5:1. We do not yet know the outcome of this matter as the independent panel has deferred the matter to Wednesday 22 May, but I do note that any uplift at this key site could give Council the opportunity to sympathetically decrease uplift in a heritage conservation area. The matter will likely come before us at the June Ordinary Meeting of Council.

Yesterday, I was also invited to attend the parliamentary inquiry on the Development of the Transport Oriented Development Program. The transcripts will become available on Hansard, and the committee report will be produced by 27 September 2024.

The State Government intends to implement low- and mid-rise housing reforms to support the National Housing Accord which commences 1 July 2024. The government has asked Ku-ring-gai whether it accepts the proposed centres under the proposed controls, and this will be considered by Council as part of GB11 tonight.

**Resolved:**

(Moved: The Mayor, Councillor Ngai)

That Council notes and receives this Mayoral Minute.

**CARRIED UNANIMOUSLY**

## PETITIONS

90

### Resident sponsored proposal to change traffic flow on Khartoum Lane from two way to one way

File: TM4/16

*Vide: PT.1*

This proposal is being submitted to Ku-ring-gai Council by the concerned residents that live on or near Khartoum Lane to change the traffic flow on Khartoum Lane from two way to a one way traffic flow. The traffic flow would be one way to the EAST. Namely, away from the Train Station, to facilitate people picking up and dropping off from the Gordon Heavy Rail station. The current LANE is NOT wide enough to accommodate two way traffic. Cars are not able to pass each as the lane is not wide enough.

#### Historical background

Khartoum Lane was built in the 1930's, as houses were developed and was designed as a night waste lane. Many of the houses during the early part of the 20th century did not have indoor toilets -- so the houses of that period had structures built in the back garden. These privies or outhouses were built on the lane so at night the waste could be collected (similar to today's garage collection). Indeed, nearly 100 years later the lane's primary used to collect residents waste and recycling. Therefore the lane was never built to accommodate modern day two way traffic. In fact, visual inspection will show that the Lane is considerably more narrow than the surrounding streets, such as Park Street, Khartoum Ave, Robert Street and Werona Avenue – all of which are two way traffic. Cars cannot pass on the lane and when two cars confronting each other going different directions, someone must back down the lane to allow the other car to progress.

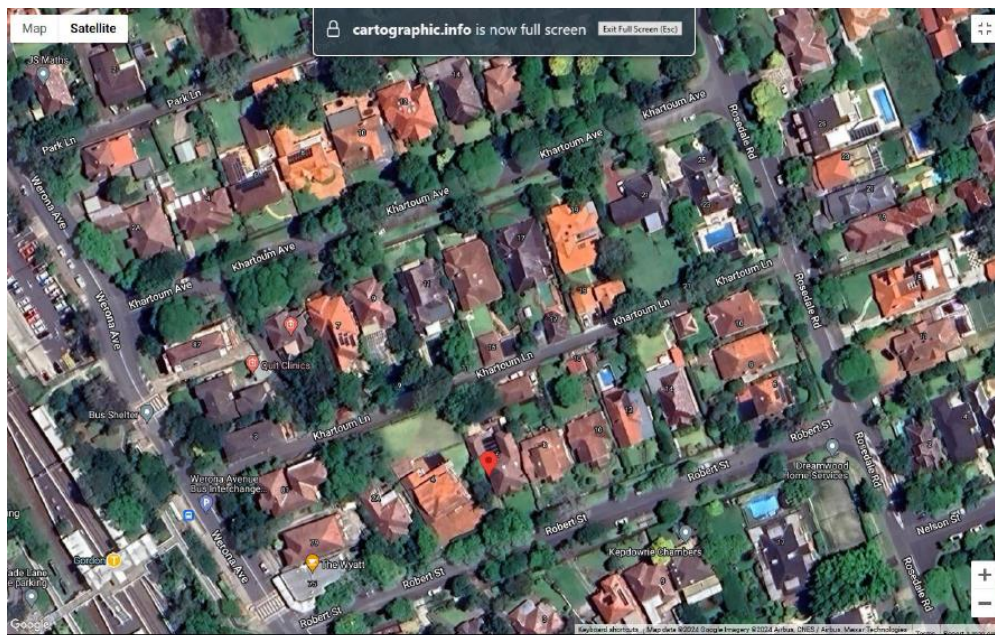


The safety of pedestrians and the protection of property in our laneway are at risk due to cars speeding. Despite recent efforts to regulate speed in surrounding streets, the laneway remains excluded, leaving it vulnerable. It's imperative to have a speed limit to the laneway. This can be communicated by painting the speed limit on the street at both entry points and installing clear, visible signage within the

laneway, ensuring a safer environment for all.

### The need for the request

The popularity of the Commuter Rail station at Gordon sees a large amount of traffic in the area. Commuters park out the residential streets (despite garages at the station) and drop off people at the station. Bus stops located on Werona avenue are directly across from the entrance to Khartoum Lane. All this activity means that traffic in the area is certainly more than the suburban streets were designed for. This becomes a huge problem when you have a LANE which is NOT wide enough for 2 vehicles to pass by each other. Additionally, pedestrian traffic is heavy - as school children use the bus stops. Added to this is at the entrance of Khartoum Lane are 2 apartment buildings whose entrances are on Khartoum Lane.



### What is being proposed increases safety.

The proposal to make Khartoum Lane one way is to prevent cars entering from Rosedale Road only to get half way down the lane and meet traffic coming from the popular train station. Additionally, having the lane one way increases the safety for pedestrians - as many of them use the Lane as a walkway. Having the traffic moving in one direction means it is more predictable for the pedestrians.

This traffic flow has been observed over many years by the residents that live on this lane and making this change will have minimum impact to people using the station, as most people are dropping off and picking up from the station and driving down the lane to the East (the proposed flow) to get to Rosedale Road.

Making the Lane one way will also increase safety on Rosedale Road. Rosedale Road is a major traffic artery in Gordon extending from Gordon to St. Ives High School. It has a large amount of traffic.

As Khartoum Lane currently is classified as two way, people can attempt to turn right into the Lane from Rosedale Road. If they are traveling south on Rosedale Road, they must slow to make the turn and making this turn is against oncoming



traffic (often accelerating up a hill or coming from Robert Street). An additional danger is that they are slowing (and stopping -- if they have to wait for oncoming traffic) and they are on a hill, so a car or bus coming south on Rosedale Road suddenly encounters a stopped vehicle in the middle of the road where they would not expect one. This situation is exacerbated if someone is already in Khartoum Lane -- as there is no way to fit two vehicles into the lane (they cannot pass each other). It should be noted that Rosedale Road is the bus route from St. Ives to Gordon and the buses travel fast and have difficulty in stopping. In short, making Khartoum Lane one way will increase safety for pedestrians and motorists. For motorists, by reducing cars making right turns on a major road -- across traffic. For pedestrians, a one way lane provides for a way to watch for traffic in a predictable manner.

This proposed change will not impact commuter traffic as they have two streets -- Robert Street and Khartoum Avenue that are two way and Khartoum Lane can be used exclusively to move people away from the station quickly after picking up or dropping off.

We, the undersigned, here by support the establishment of ONE WAY traffic flow on Khartoum Lane and urge Ku-ring-gai Council to consider and approve this request by concerned citizen of the area. (9 Signatures).

**Resolved:**

(Moved: Councillors Ward/Lennon)

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

**CARRIED UNANIMOUSLY**

91

**Establish a Safe Pedestrian Footpath on Winchester Avenue, Lindfield**

File: TM6/16

*Vide: PT.2*

Roseville Ward Councillors have received the following 1-page petition from Hayley Pentermann, advocating for a pedestrian footpath on Winchester Avenue in Lindfield:

As a family with young children living in Lindfield, we often find ourselves walking along the busy Winchester Ave connecting Lyle Avenue to Eton Road. The nature strips are inadequate, especially when trying to push prams and walk with our toddler to the local parks. In just a few short years, our children will need to navigate this street themselves to reach local schools and public transport.

This road is not just frequented by us but also by many other pedestrians including children attending the local school, children attending sports training and games at Charles Bean Oval and the many residents who enjoy exercise and walk their pets. Yet there is no safe pedestrian footpath established here. This poses significant safety risks for all pedestrians, especially during peak hours when traffic is heavy.

According to the Australian Bureau of Statistics (ABS), pedestrian fatalities account for 14% of all road deaths in Australia (source: ABS). A dedicated footpath would

significantly reduce this risk and ensure that everyone can travel safely within our community.

We urge the local council of Ku-ring-gai NSW, Australia to take immediate action on this matter. By establishing a safe pedestrian footpath along this busy road, we can protect all pedestrians - from young families like ours to school-age children who rely on this route for their daily commute. Please sign this petition if you believe in creating safer streets for everyone in Lindfield. Your support could make a real difference in our community's safety and quality of life.

Please sign this petition if you believe in creating safer streets for everyone in West Lindfield. Your support could make a real difference in our community's safety and quality of life. (109 Signatures)

**Resolved:**

(Moved: Councillors A. Taylor/Ward)

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

**CARRIED UNANIMOUSLY**

92

**Lindfield Village Hub Project**

File: S10973

*Vide: PT.3*

Roseville Ward Councillors have received a 1-page petition from Scott Savage of Support Lindfield to 'Please vote against terminating the Lindfield Village Hub Project and in favour of negotiating with tender finalists.'

The petition has been up for approximately a week and a half and the tally at 10am on 21 May 2024 was 930 signatures.

**Resolved:**

(Moved: Councillors A. Taylor/Kay)

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

**CARRIED UNANIMOUSLY**

**GENERAL BUSINESS**

93

**Minutes of Audit, Risk & Improvement Committee Meeting held on 21 March 2024**

File: CY00458/12

*Vide: GB.1*

To provide Council with the Minutes from the Audit, Risk & Improvement

Committee meeting held on 21 March 2024 for adoption.

**Resolved:**

(Moved: Councillors Lennon/Ward)

That the minutes from the Audit, Risk & Improvement Committee meeting held on 21 March 2024 be adopted.

**CARRIED UNANIMOUSLY**

94

**Sustainable Recreation Advisory Group - Meeting Minutes 4 April 2024**

File: S13163

*Vide: GB.2*

That Council receive and note the minutes from the Sustainable Recreation Advisory Group ('SRAG') meeting held on 4 April 2024 and endorse the recommendations within.

**Resolved:**

(Moved: Councillors Lennon/Ward)

That Council receive and note the Sustainable Recreation Advisory Group minutes of 4 April 2024 and endorse the recommendations within:

- (i) That Bicentennial Park be recommended for further investigation for a Build and Ride site.
- (ii) That Councillors receive a briefing on the Build and Ride program.
- (iii) That Council staff resolve technical issues with the online bushwalking tracks map and update online mapping with grading, accessibility and transportation information, and communicate updated maps with the community.

**CARRIED UNANIMOUSLY**

95

**2023 - 2024 Budget Review - 3rd Quarter ended March 2024**

File: S09112/12

*Vide: GB.4*

To inform Council of the results of the second quarter budget review of 2023/24 and proposed adjustments to the annual budget based on the actual financial performance and trend for the period 1 July 2023 to 31 March 2024.

**Resolved:**

(Moved: Councillors Lennon/Ward)

That the March 2024 Quarterly Budget Review and the recommended changes be received and noted.

**CARRIED UNANIMOUSLY**

96 **Analysis of Land and Environment Court Costs - 3rd Quarter 2023 to 2024**

File: FY00623/6

*Vide: GB.5*

To report legal costs in relation to development control matters in the Land and Environment Court for the quarter ended 31 March 2024.

**Resolved:**

(Moved: Councillors Lennon/Ward)

That the analysis of Land and Environment Court costs for the year ended 31 March 2024 be received and noted.

**CARRIED UNANIMOUSLY**

97 **Investment Report as at 30 April 2024**

File: FY00623/6

*Vide: GB.6*

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

**Resolved:**

(Moved: Councillors Lennon/Ward)

That:

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

**CARRIED UNANIMOUSLY**

98 **St Edmund's College community fundraising event**

File: CY00043/16

*Vide: GB.7*

To advise Council of the opportunity to purchase tickets for St Edmund's College's community fundraising event (Eddie's Big Night Out) on 15 June 2024.

**Resolved:**

(Moved: Councillors Lennon/Ward)

That:

- A. Council purchase a table for St Edmund's College's community fundraising event (Eddie's Big Night Out); and
- B. If supported, that Councillors interested in attending advise the General Manager by 24 May 2024.

**CARRIED UNANIMOUSLY**

99 **Project Status Report - May 2024**

File: FY00621/6

*Vide: GB.8*

To provide Council with the Project Status Report for February, March and April 2024.

**Resolved:**

(Moved: Councillors Lennon/Ward)

That:

- A. Council receive and note the Project Status Report for February, March and April 2024.
- B. The Project Status Report be placed on Council's website.

**CARRIED UNANIMOUSLY**

100 **No net loss of tree canopy**

File: S12227

*Vide: GB.9*

Report back as per NM.5 of the OMC of 19 March, which resolved that, Council reports back by May 2024 on the feasibility of:

- A. *Amending the KDCP to achieve no net loss of canopy area at maturity and seek to achieve a net gain, including some quantification of the historical change in canopy area pre and post development (at maturity) for different types of development.*
- B. *Adopting a policy of 'achieving a net gain' of canopy area and under-storey vegetation during material changes to Council-owned land; and*
- C. *A system with supporting marketing to promote and supply resident planting of locally indigenous trees and vegetation across all storeys, from an ecosystem to suit their site-specific soils and initially targeting green corridors.*

**Resolved:**

(Moved: Councillors Lennon/Ward)

- A. That Council receive and note this report.
- B. That possible future amendments to the Ku-ring-gai DCP be investigated as part of the *Urban Forest Canopy Loss Analysis in Ku-ring-gai Local Government Area* project.

**CARRIED UNANIMOUSLY**

101 **Planning Proposal 17a Edward Street, Gordon - Consideration of Submissions**

File: S14395

*Vide: GB.10*

For Council to consider the submissions received during the public exhibition of the Planning Proposal to heritage list 17a Edward Street, Gordon.

**Resolved:**

(Moved: Councillors Lennon/Ward)

- A. That Council adopt the Planning Proposal to include 17a Edward Street, Gordon as local heritage items in Schedule 5 of Ku-ring-gai Local Environmental Plan 2015.
- B. That Council proceed to make the plan, using its delegated authority under section 3.36(2) of the Environmental Planning and Assessment Act 1979.
- C. That those who made submissions be notified of Council's decision.

**CARRIED UNANIMOUSLY**

102 **Ku-ring-gai Hub Projects Status - Confidential Update**

File: S12165-4-6

*Vide: C.1*

In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*, in the opinion of the General Manager, the following business is of a kind as referred to in sections 10A(2)(c), 10A(2)(d)(i) & 10A(2)(d)(ii), of the Act, and should be dealt with in a part of the meeting closed to the public.

Section 10A(2)(c) of the Act permits the meeting to be closed to the public in respect of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

The matter is classified confidential because it deals with the proposed acquisition and/or disposal of property.

It is not in the public interest to release this information as it would prejudice Council's ability to acquire and/or dispose of the property on appropriate terms and conditions.

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.

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)(ii) because it would confer a commercial advantage on a competitor of the Council.

Report by General Manager dated 5 May 2024

### **Resolved:**

(Moved: Councillors Lennon/Ward)

- A. That Council review the feasibility of the Turramurra, Gordon and Lindfield Hub projects as set out in this report.
- B. That the current exclusive negotiations with the Lindfield Village Hub 'preferred proponent' be concluded and that Council commence negotiations with other providers, as outlined in this report.

**CARRIED UNANIMOUSLY**

103

### **Optimising the management of natural turf sporting fields to enable increased usage**

File: S07823

*Vide: NM.5*

#### **Notice of Motion from Councillor G Taylor dated 3 May 2024**

Across Ku-ring-gai, and as reported in the recently developed Recreation Needs

Study, demand for recreational spaces and sports fields is high. This demand for sports fields is expected to increase along with population growth and increased housing density. This increased demand for recreational spaces in Ku-ring-gai reflects trends seen across Greater Sydney.

Due to the scarcity and affordability of land for new public spaces within Ku-ring-gai, meeting any increased demand for sporting fields poses a significant challenge. Land for new sports spaces may not be financially, socially, or environmentally feasible and as such there is a need to improve the capacity and quality of existing sports fields.

There are many factors in the construction and development of high-capacity fields including location and solar access, soil and turf selection, drainage, construction method, budget, and water availability. Similarly, there are many factors for the management of high-capacity fields including activity types, player numbers and intensity as well as budget, nutrient, fertilisation and chemical regimes, aeration and soil improvement, pest and disease management practices and education of users. By addressing these factors, the capacity and quality of natural turf fields could be significantly improved, providing sustainable and high-quality playing surfaces for sports and recreational activities.

Ku-ring-gai currently has 55 sports fields and optimising the quality and capacity of these fields may represent a significant opportunity to meet future demand. By selecting key sites that have recently been constructed or which are below average condition, Council could partner with industry experts to design a trial aimed at improving management practices and capacity across the LGA.

I, therefore, move:

That a report be brought back to Council outlining a trial aimed at increasing the usage capacity of selected existing natural turf sporting fields when supported by optimal soil and turf amendments, maintenance, and wear and usage management regimes.

**Resolved:**

(Moved: Councillors G. Taylor/Lennon)

That the above Notice of Motion as printed be adopted.

**CARRIED UNANIMOUSLY**

104

**Support for Pymble Ladies College**

File: S13239

*Vide: NM.6*

**Notice of Motion from Councillor Ward dated 3 May 2024**

Pymble Ladies' College has been a steadfast supporter of *HerVillage Foundation* since former student Tahmara Thomas presented her ideas to assist recently arrived refugees from Afghanistan following the resurgence of the Taliban in 2021. The College readily provided access to its sports fields, buildings, buses and staff, while actively encouraging student participation and promoting Tahmara's initiative.



Recognising the importance of cultural cohesion in Sydney, the school, renowned for celebrating its diverse student population, places great value on fostering intercultural understanding and cultivating a sense of belonging. Through various inclusive avenues such as sport, performing arts, curriculum, STEM activities and interfaith dialogue, Pymble Ladies' College actively endeavours to bring people together, nurturing familial and communal engagement in inclusive spaces.

*HerVillage Foundation* is a non-for-profit that focuses on empowering young women of refugee background as the leaders of our tomorrow. At *HerVillage*, the vision is to create lifelong learning opportunities for girls who are recently arrived refugees in Australia. Their program, the Village Championship, focuses on raising funds and awareness as well as promoting settlement into Australian society for recently arrived refugee students through friendship-building and sport.

In partnership with Pymble Ladies' College and Barker College, *HerVillage Foundation* is expanding the communities they work with to involve students from the Ukrainian community and the Rohingya community as well as the Afghan community. An event is planned, which will be held at Pymble Ladies' College in October. Day one is a leadership program/ice break event, day two is a football training day and day three is the big cultural festival that is open to general public. On this day there will be food stalls, inspirational speakers, live music and cultural activities, and it all centres around a football match played by the girls involved.

*HerVillage Foundation* and PLC are doing amazing work in this space, and I believe the community will benefit from learning more about this work.

I, therefore, move that Council:

- A. Support the event by acknowledging and allowing the use of its logo
- B. If practicable promote through its social media and or website
- C. Promote in its newsletter.

**Resolved:**

(Moved: Councillors Ward/A. Taylor)

That the above Notice of Motion as printed be adopted.

**CARRIED UNANIMOUSLY**

105

**Youth Advisory Committee**

File: S04477

*Vide: GB.3*

To provide Council with information about how Youth Advisory Committees are operating within other councils in metropolitan Sydney, and to provide a draft Terms of Reference for a Youth Advisory Committee for Ku-ring-gai Council.

**Resolved:**

(Moved: Councillors Ngai/Ward)

- A. That in the leadup to the update of Council's Community Strategic Plan in 2025, Council commences extensive consultation with local young people including a

forum to identify youth needs and establish a five year action plan.

- B. That Council endorse the Terms of Reference in Attachment A1 and commence the Youth Advisory Committee with a short first term to December 2025.
- C. That following the youth consultation and action plan, Council review its approach to the Youth Advisory Committee and other supporting initiatives, then update the Committee's Terms of Reference before seeking members for its second term starting January 2026.

**CARRIED UNANIMOUSLY**

106

**Low and mid-rise housing policy - Feedback to NSW Department of Planning, Housing & Infrastructure**

File: S14428

*Vide: GB.11*

To have Council consider feedback on the Low & Mid-rise Housing policy application to Ku-ring-gai LGA.

**Resolved:**

(Moved: Councillors A. Taylor/G. Taylor)

That Council:

- A. Acknowledges the important role for each LGA to play its part in the National Housing Accord and agrees that there should be increased density around transport hubs and shops. However we also believe that the current proposal for the low- and mid-rise housing provisions will not create the best outcomes for our future residents and the environment.
- B. Requests a 12-month deferral of the low- and mid-rise Housing SEPP from the department upon agreeing reasonable 5-year and 20-year new-dwelling targets as implied by the SEPP. The targets will form the basis of an update to its Local Environment Plan over 12 months with the intent to match state policy objectives while providing a superior and more environmentally sensitive outcome for future residents.
- C. Includes the town centres and associated stations in Council's LEP update (with the proviso of planning for additional essential infrastructure).
- D. Proposes changes to the non-refusal standards for dual-occupancies if we are not given a deferral, to be minimum site area 600 sqm and maximum floor space ratio 0.5:1, in writing to the department. This will better assist Greater Sydney in achieving the State's target of 40% urban tree canopy by 2036.
- E. Notes that in its 28 November 2023 media release, the Department of Planning stated that "If a local government's planning rules match - or go further than - this new NSW Government policy, the State Government changes will not apply."
- F. Endorses the exclusion of all town centres and stations from the Low and Mid-rise Housing Policy as discussed in this report and specified in Attachment A3 - *Feedback form – Station and town centre precinct selections* and Attachment

*A4 - Feedback form – Bushfire, Flood, and other hazards.*

**CARRIED UNANIMOUSLY**

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

107

### **Marian Street Theatre, Lindfield Library**

File: S12062

*Vide: NM.1*

#### **Notice of Motion from Councillor Lennon dated 2 May 2024**

Council owns the land on which the Lindfield Library stands. That land also provides space for the Ku-ring-gai Youth Development Service (KYDS), a senior citizens centre, accommodation, car parking, and lawns. If Council resolves to sell that land, it would ensure that it provides replacement library, KYDS, and senior citizen facilities, with parking.

On 14 February 2023, Council resolved at GB.1:

*C. The required proceeds from the future sale of the existing Lindfield Library will be quarantined and dedicated to the Lindfield Village Hub project.*

As a result of the state government (through Transport for New South Wales) in November 2023 withdrawing \$9.8 million funding for additional commuter car parking in Ku-ring-gai, the Lindfield Village Hub might not proceed at this time.

Council has not previously sought federal government, New South Wales state government, philanthropic, or community funding for the repairs and/or construction necessary to re-open the Marian Street Theatre as a functional professional theatre.

I, therefore, move that:

- A. Council explore federal government, New South Wales state government, philanthropic, and community funding for the repairs and/or construction necessary to re-open the Marian Street Theatre as a functional professional theatre.
- B. If Council resolves to sell the Lindfield Library site, Council apply such of the proceeds of any sale of the Lindfield Library site as are necessary to fund the redevelopment of the Marian Street Theatre, after setting aside:
  - i. any amount required for the Lindfield Village Hub, and
  - ii. if the Lindfield Village Hub does not proceed or proceeds without a replacement library, any other amount required to establish a new Lindfield library and to replace the other community facilities that Council currently provides on the Lindfield Library site.

#### **Resolved:**

(Moved: Councillors Lennon/Ward)

That:

- (a) Council explore federal government, New South Wales state government,

philanthropic, community funding, and other sources identified by Council staff for the repairs and/or construction necessary to re-open the Marian Street Theatre as a functional professional theatre or arts and cultural centre.

(b) If Council resolves to sell the Lindfield Library site, Council apply such of the proceeds of any sale of the Lindfield Library site as are necessary to fund the redevelopment of the Marian Street Theatre as a functional professional theatre or arts and cultural centre, after setting aside:

(i) any amount required for the Lindfield Village Hub, and

(ii) if the Lindfield Village Hub does not proceed or proceeds without a replacement library, any other amount required to establish a new Lindfield library and to replace the other community facilities that Council currently provides on the Lindfield Library site.

**CARRIED UNANIMOUSLY**

108

**Updating the Code of Meeting Practice to improve the accessibility and transparency of our public forums and take action on urgent issues**

File: CY00438/12

*Vide: NM.2*

**Notice of Motion from Councillor Kay dated 2 May 2024**

Ku-ring-gai Council is committed to principles of good governance: transparency, accessibility, and accountability. We recognise the crucial role of community engagement in the democratic process.

As councillors are elected by their communities to make decisions on their behalf, it is important that the community can see this decision-making in action and understand how and why decisions are made. Live streaming of council meetings assists with this (see the NSW Office of Local Government's Guide to Webcasting Council and Committee Meetings 2021).

By further leveraging this technology, we propose livestreaming public forums as well. This would extend participation beyond the physical council chambers, making these forums accessible to all, regardless of physical limitations, geographic location, or scheduling constraints.

Livestreaming not only broadens engagement by offering a real-time view into council operations, but also promotes greater public confidence in the integrity of our processes. It ensures that council decisions and the decision-making process are open and visible to the community, reinforcing our dedication to transparency and ensuring the community's voice is heard.

This approach will also provide a reliable record of discussions and decisions. It curtails the spread of misinformation by allowing direct public access to source material and enhances the accountability of everyone involved in the council's operations.

Adopting a policy to livestream all public forums would meet the expectations of Ku-ring-gai residents for a modern, accessible and responsive government. It

would ensure that every community member can see and participate in local government no matter where they are. This will maintain and enhance public trust, engagement and allow a broader community to participate.

Lane Cove, Kiama and Kempsey Councils also hold public forums on separate nights from meetings and livestream them. The benefits of this are:

- **Enhanced Transparency:** This openness builds trust between council and its residents by showing that council is committed to transparency.
- **Increased Accessibility:** By live streaming public forums, council can ensure that all community members, including those who are unable to attend in person due to disabilities, transport limitations or time constraints can stay informed and engaged with local issues.
- **Broader Engagement:** Live streaming can reach a larger audience, engaging residents who might not typically attend council forums. This can lead to greater community involvement and input in local government affairs, potentially increasing public participation in surveys, feedback sessions and community discussions.
- **Accountability:** When meetings are accessible to a wider audience, council members and officials are likely to be more mindful of their conduct and decisions. This accountability can lead to more thoughtful, deliberate decision-making and can enhance the integrity of the council.
- **Record Keeping and Review:** Recorded live streams provide a permanent record of meetings, which can be useful for creating accurate minutes, reviewing decisions and allowing residents to access past forums at their convenience. This can be particularly helpful for people who want to stay informed but have scheduling conflicts.
- **Reduction of Misinformation:** Providing direct access to meetings via live stream helps ensure that information disseminated in the community is accurate and sourced directly from the decision-makers, reducing misunderstandings and misinformation.

### **Remote participation in public forums**

This Council recently provided the opportunity for community members to join our public forums remotely via Zoom.

In the same spirit of accessibility and inclusivity, it is time to re-establish this option for the members of our community who are unable to attend in person - and amend the Code of Meeting Practice to make this permanent. We should be increasing opportunities for all our residents to have their voices heard.

### **Granting the General Manager the authority to call an extraordinary meeting.**

This amendment would clarify any uncertainty in the current Code of Meeting Practice about whether the General Manager can call an extraordinary meeting to deal with urgent or unforeseen operational matters.

In line with Section 366 of the Local Government Act, the current Code of Meeting Practice requires that the Mayor call an extraordinary meeting if requested in writing by at least two councillors. However, the Act and Code is silent on other ways that a meeting could be called.

There will be times when Council needs to come together to deal with a matter of

great urgency and importance. This could be to deal with a natural disaster, an unexpected event in a major contract, a major policy announcement, or to take advantage of a funding opportunity.

By updating the Code of Meeting Practice to incorporate these amendments, we can create a more accessible and transparent Council, encourage greater public engagement and take more timely action on critical issues.

I, therefore, move that Council:

- A. prepare a new draft Code of Meeting Practice to allow for:
  - i. public forums to be webcast and recordings of public forums to be made available on Council's website
  - ii. public forums to always be held as a hybrid meeting, unless the meeting is unable to be held physically in the Council Chamber in which case it will be held by audio-visual link only
  - iii. the General Manager, in consultation with the Mayor, to call an extraordinary meeting to consider urgent business without the need to obtain the signatures of two councillors.
- B. place the draft Code of Meeting Practice on public exhibition for 28 days and bring a report back to Council at the end of the consultation period summarising the public response and providing a final version of the new Code of Meeting Practice for adoption.

**MOTION:**

(Moved: Councillors Kay/G.Taylor)

That the above Notice of Motion as printed be adopted.

**AMENDMENT:**

(Moved: Councillors Wheatley/Ward)

That:

- A. A report be brought back to Council in July 2024 on how the Code of Meeting Practice could allow for:
  - i. public forums to be webcast and recordings of public forums to be made available on Council's website. Issues to be considered include liability and whether speakers should sign waivers; providing the option for individuals to choose not to be webcast but still participate; and whether the webcast should be streamed live or delayed.
  - ii. public forums to always be held as a hybrid meeting, unless the meeting is unable to be held physically in the Council Chamber in which case it will be held by audio-visual link only
- B. The report should review the practices of other councils and provide draft amendments to the Code of Meeting Practice for consideration by Council.

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

The Amendment became the Motion. The Motion was put and declared **CARRIED UNANIMOUSLY.**

**Resolved:**

(Moved: Councillors Wheatley/Ward)

That:

- A. A report be brought back to Council in July 2024 on how the Code of Meeting Practice could allow for:
- i. public forums to be webcast and recordings of public forums to be made available on Council's website. Issues to be considered include liability and whether speakers should sign waivers; providing the option for individuals to choose not to be webcast but still participate; and whether the webcast should be streamed live or delayed.
  - ii. public forums to always be held as a hybrid meeting, unless the meeting is unable to be held physically in the Council Chamber in which case it will be held by audio-visual link only
- B. The report should review the practices of other councils and provide draft amendments to the Code of Meeting Practice for consideration by Council.

**CARRIED UNANIMOUSLY**

109

### **Explore Regional Sister City Relationships**

File: S03289

*Vide: NM.3*

#### **Notice of Motion from Councillor Kay dated 3 May 2024**

Sister cities or twin towns are cooperative agreements between communities, formalised through memorandums of understanding and typically signed by local government representatives.

These agreements aim to promote collaboration and connection through cultural exchange and understanding, economic collaboration, and mutual support.

Sister Cities Australia facilitates such relationships by matching communities within Australia, as well as internationally, that share similar values yet offer diverse experiences. Establishing a Sister City relationship could offer Ku-ring-gai Council significant cultural enrichment and opportunities for economic and educational interchange, especially with another town, city, or shire within New South Wales that shares our commitment to sustainability and cultural diversity.

#### **Potential Benefits of a Regional Sister City Relationship:**

1. Enhanced cultural exchange that promotes deeper understanding and appreciation of diverse Australian cultures, including Aboriginal heritage.
2. Economic collaborations that could range from joint tourism promotions to shared local business support initiatives.
3. Educational exchanges focused on best practices in environmental sustainability, particularly around Net Zero and Climate Wise communities.
4. Increased community engagement through shared projects involving youth ambassadors, culturally and linguistically diverse (CALD) communities, and volunteer programs.

This initiative not only promises to enrich our community's cultural landscape and economic vitality but also strengthens ties with other regional centres, fostering a broader sense of cooperation and mutual growth within the state.

I, therefore, move that Ku-ring-gai Council:

- A. investigate the potential benefits, opportunities and costs of establishing Sister City relationships with other regional communities in New South Wales.
- B. reach out to Sister Cities Australia to express interest in identifying and progressing potential partnerships that align with our values and priorities.

**Resolved:**

(Moved: Councillors Kay/Lennon)

That the above Notice of Motion as printed be adopted.

**CARRIED UNANIMOUSLY**

110

**Domestic Violence**

File: S08654

*Vide: NM.4*

**Notice of Motion from Councillor Ward dated 3 May 2024**

Based on data provided by the NSW Police, it is distressing to note that, on average, one woman loses her life every week due to violence inflicted by a current or former partner.

One in three women has experienced physical or sexual violence at the hands of someone they know. Shockingly, one in four young people is willing to excuse violent behaviour from a partner. One in five women have experienced violence from a partner. A woman is killed every two weeks in Australia by their partner.

In 2023, NSW Police reported that there were 128 incidents of domestic violence reported in Ku-ring-gai, along with 102 cases of sexual assault or offence.

Domestic and family violence does not discriminate and has increased. It impacts everyone no matter their age, background or socio-economic status. People from culturally and linguistically diverse backgrounds may misunderstand what domestic violence is and not know their legal rights in relation to it.

The cycle of domestic and family violence starts with disrespectful personal and/or family attitudes and behaviours.

All violence is unacceptable, whether it occurs in the home or elsewhere, and no matter who perpetrates it. The underlying causes of violence are complex but there is a growing body of research and evidence linking gender-based violence to gender inequality.

Violence against women and girls is a prevalent, serious and preventable violation of human rights, therefore we must take action and do all we can to change the landscape. Everyone deserves to be safe, supported and respected.

Domestic Violence Remembrance Day was on 1 May 2024, and communities across Australia came together to remember those we've lost to domestic and family



violence. I attended a number of events held by various Councils where we came together to light a candle and honour the memory of those lost as a result of domestic or family violence.

As a Patron of Hornsby Ku-ring-gai Women's Shelter - I am acutely aware that domestic and family violence is the main reason women and children leave their homes which leads to so many issues including housing insecurity and homelessness. Whilst the Shelter support many, sadly many aren't helped because of a lack of resources.

As a council, we must do everything we can to raise awareness, partner with other levels of government, and support the critical work of our community groups.

I, therefore, move that Council:

- A. Develops and implements an Action Plan to increase awareness and prevention of domestic, family, and sexual violence.
- B. Embeds gender equality and respect in Council and our community.
- C. Marks Domestic Violence Remembrance Day by holding or supporting an event in Ku-ring-gai.

### **Resolved:**

(Moved: Councillors Ward/Wheatley)

That Council:

- A. Develops and implements an Action Plan to increase awareness and prevention of domestic, family, and sexual violence.
- B. That the draft Violence Against Women Action Plan be aligned with State and Commonwealth Government Violence Against Women Plans and be presented to Council for endorsement by August 2024.
- C. Embeds gender equality and respect in Council and our community.
- D. Marks Domestic Violence Remembrance Day by holding or supporting an event in Ku-ring-gai.
- E. That Council allocates \$100,000 to establish a grants program aimed at supporting frontline services and local community group initiatives focused on preventing violence against women in Ku-ring-gai.

**CARRIED UNANIMOUSLY**

### **QUESTIONS WITH NOTICE**

**What is Council's Position on Environmental Issues at the North Turrumurra Recreation Area ("NTRA") and if Leased will the Lessee be Legally Responsible?**

File: S13633

*Vide: QN.1*

### **QUESTION:**

Question from Councillor Spencer dated 29 April 2024

**Facts:**

This question with notice is to avoid residents from having to spend their hard-earned money on legal actions taken against council over its obligations to the environment and community – e.g., the recent case between resident groups and council over environmental issues at the Norman Griffiths Football Field costs both parties a significant amount of money.

**RESPONSE:**

*Responses from the Director Strategy & Environment, Andrew Watson, appear below the questions:*

**Questions:**

1. *How many pit traps are there at NTRA to catch microplastic movement?*

**Council response:**

There are no pit traps installed as part of the field design. There is a full concrete curb around the synthetic field (except at pedestrian gates) to limit rubber infill export from the site.

Water drains through the synthetic surface and generally goes into the large detention basin. Runoff from the car park goes into the raingardens and smaller onsite stormwater detention basins.

2. *What monitoring of the Duffy's forest plant community below the oval has council undertaken?*

**Council response:**

Council staff do irregular visual inspections only in relation to possible microplastic movement. The site is not a priority site for direct intervention.

A significant proportion of land "below" the oval is not in Council ownership or management.

3. *What monitoring of chemical and microplastic movement from the oval has council undertaken?*

**Council response:**

None in relation to use of the synthetic field. Refer to answer at question 1, above.

Council Officers have implemented process improvements relating to cleaning of machinery to minimise export of rubber infill.

There has been no formal or independent study conducted as part of the operation or management of the site as a consequence of the installation of a synthetic playing surface.

4. *If the NTRA is leased, will the lessee be responsible for environmental issues, not limited to issues raised in 1, 2 and 3 above?*

**Council response:**

No. The NTRA site is not proposed to be leased, only that part of the site proposed for the grandstand and associated facilities. The NTRA site comprises the golf course, playing fields, wastewater treatment plant, and

associated car parking and amenities.

Large parts of the site were previously an unlined, uncapped, and uncontrolled general landfill site prior to remediation works. While the former landfill site is now capped, limiting water ingress, it is not lined.

Any obligations arising in relation to items 1-3 above exist irrespective of the proposal to construct the grandstand project.

5. *If the lessee is in breach of their environmental obligations, not limited to issues raised in 1, 2 and 3 above, what recourse will council have against them?*

**Council response:**

Not applicable. Refer to the answer to question 3, above. There is no alleged or acknowledged breach of environmental obligations at this site relating to the installation of a synthetic playing surface.

6. *As a matter of public interest, will the General Manager provide answers to the above questions in written format to be distributed to councillors at the OMC dated 21 May 2024?*

**Council response:**

Yes.

## **Norman Griffiths Oval**

File: S13191

*Vide: QN.2*

### **QUESTION:**

Question from Councillor Kay dated 2 May 2024.

### **RESPONSE:**

*Responses from the General Manager, David Marshall:*

#### **Delays to Construction**

Council states online that the oval has been delayed due to "excessive wet weather, unsuitable ground material and the identification of contaminated soil".

1. *In terms of unsuitable ground material and identification of contaminated soil, studies in the Review of Environmental Factors (REF) point to the presence of unconsolidated fill and the risk of asbestos. Why were these possibilities not explored nor taken into account before embarking on construction?*

#### **Council response:**

Prior to construction, geotechnical testing was conducted and identified the presence of "uncontrolled" fill. However, analysis of the samples indicated that the subsurface conditions were generally suitable for the construction of the proposed surface. The suggested recommendation at the time was to strip off the topsoil, impact roll the existing fill to determine what needed to be removed and replaced with engineered fill. Once exposed, there was a larger than expected volume of uncontrolled fill material which could not be satisfactorily compacted and needed

to be replaced.

A contamination assessment was undertaken prior to construction and found no visual evidence of asbestos containing materials (ACM), and asbestos was not detected in analysis of soil samples. The REF does not indicate the risk of asbestos, it makes general comment about procedure if encountered on site (refer to page 72 of the REF).

2. *Given this is the case, has the contractor been paid for any extra costs due to unconsolidated fill or asbestos?*

**Council response:**

Yes. The contractor has been paid variations due to unconsolidated fill and the subsequent discovery of asbestos during excavation. The variations were considered and approved in line with contractual obligations.

3. *Can you please list the causes for the delays at Norman Griffiths Oval?*

**Council response:**

The primary delays are due to the unfavourable ground conditions as well as asbestos contamination. Significant delays were experienced to rectify these conditions. Wet weather, including the record rainfall experienced in early April 2024 which inundated the site with a significant amount of stormwater, has also contributed to delays.

4. *Please also advise whether council or the contractor is liable for additional costs regarding each cause.*

**Council response:**

The unfavourable ground conditions and asbestos were deemed as latent conditions under the contract and Council was liable for the associated costs. The general wet weather throughout the project is not a cost liable to Council and extensions of time were granted under the contract. The impact (cost and time) associated with rainfall in April 2024 is still being dealt with in line with contract obligations.

5. *Please also advise whether the contractor is liable for any liquidated damages for delay.*

**Council response:**

Yes. Liquidated damages are applicable in the contract and will be applied accordingly.

**Costs of Oval**

1. *What was the contracted cost for the oval?*

**Council response:**

The contracted cost was approx. \$3.3 million.

2. *Have there been any variations to the contract. Please provide what the variations were for and what the costs of these variations were.*

**Council response:**

Variations have been:

- Cost increase in tendered items since time of tender, protracted time required

for REF sign-off and impacts of pandemic led to justifiable reasoning for contractor to seek increase to costs including (but not limited to) aggregate beneath field, furniture / fixtures, electrical components and synthetic turf. Cost \$330,100.

- Storage and associated costs due to protracted time between tender signing and construction works. Cost \$37,300.
- Modifications to project scope identified during design development, unforeseeable by contractor at time of tendering or directly requested by principal, including (but not limited to) walling, bleachers, fence modifications and drainage modifications. Cost \$114,000
- Additional consultancy work required to complete REF component of the work unforeseeable by the contractor at time of tender. Cost \$11,000
- Unconsolidated fill remediation works. Cost \$613,700
- Rock excavation. Cost \$6,400
- Contaminated soil remediation works. Cost \$242,200

Total cost of variations has been \$1,354,700.

3. *How much is the oval costing to date?*

**Council response:**

The revised contract amount is approx. \$4.6 million.

4. *What is the predicted final cost of the whole project?*

**Council response:**

The final cost of the project is forecast to be approx. \$5 million.

**Flood Risk and Impact on Sydney Turpentine Ironbark Forest and Microplastics**

1. *The REF outlines an overland path in a flood event in that goes through the Sydney Turpentine Ironbark Forest (STIF). How has council satisfied itself that this will not impact on the critically endangered forest?*

**Council response:**

Yes. The overland flow path was considered as part of the REF assessment and specifically within the flora and fauna impact assessment and the 5-part test of significance for STIF. The assessment concluded that the proposal is not likely to have a significant effect. Overland flow paths during flood events are a common occurrence through both urban and bushland areas. In this area, the overland flow path is in the general vicinity of the piped watercourse, and the original oval detention arrangement included a spillway through the STIF area to provide discharge of water during large events.

2. *What studies or modelling has council undertaken with regards to the movement of the cork infill and plastic turf in the event of a probable maximum flood?*

**Council response:**

The impact of a probable maximum flood (PMF) on the field is being modelled as part of the Lane Cove Northern Catchments Flood study. Probable maximum flooding was not specifically modelled in relation to the oval upgrade project as synthetic playing surfaces are generally not considered a hazardous or sensitive development type under NSW Planning guidelines. The probable maximum flood is an extremely rare and unlikely event, and the environmental risks relating to

flooding of this field are small compared to other impacts on the surrounding area during such an event.

3. *When will the council be undertaking comprehensive modelling of the flood risk and impact at Norman Griffith oval, including impact on Quarry Creek downstream and the STIF around it?*

**Council response:**

A review of the stormwater management system (hydraulic assessment) has been undertaken. It advises the proposed stormwater system meets Council's requirements for stormwater management and that the hydrologic and hydraulic assessment of the proposed underground on-site detention shows a neutral or beneficial impact compared with the existing above ground detention basin. See Section 4.4 of the REF.

4. *How many traps are there to collect microplastic infill at Charles Bean Oval, North Turramurra Recreation Area (NTRA) and Norman Griffiths Oval?*

**Council response:**

**Charles Bean Oval:** There are 8 pit filter baskets in the grated stormwater pits adjacent to the field. All stormwater entering these pits passes through the filter bags that capture microplastics from the field. Additional mitigation measures were identified in the December 2023 AUSMAP research project with Council, and controls to further improve capture of microplastics are being proposed. It should be noted that field was designed and constructed by Defence Housing Australia (DHA) as part of the development of 345 units on the former UTS site. The project was approved by the NSW Government under the major projects regime in place at that time. Council paid the cost difference between a natural turf field and a synthetic field under a Voluntary Planning Agreement.

**NTRA:** There are no stormwater pit filter traps at NTRA. Site pollutants are trapped by the large onsite stormwater detention (OSD) basin with trash rack screens and biofilter raingardens that flow into smaller basins. The NTRA fields are designed so that all stormwater flows to the large OSD basin, while the carpark's stormwater runoff flows to the biofilter raingardens and smaller basins for detention before flowing out into the surrounding environment.

**Norman Griffiths Oval:** The REF (see section 5.1.2) requires all stormwater from the site to be filtered prior to discharge. It is likely this will involve installing filter baskets on all pits or a single point of collection to filter. The best options to meet the REF objective will be identified and implemented during the final stage of construction. Each entry/exit point from the field has a shoe cleaning grate to further minimise risk of microplastics entering the environment.

**Legal Issues**

On 19 November 2019 when asked about the liability concerns of councillors and council staff given the flood risk at Norman Griffith? A senior member of staff stated:

*In the event, the example being export of that material into the creek – if that was deemed to be environmental harm, it may well be that the officers that signed the REF would be personally responsible for prosecution and there has been precedence for that in the past.*

Given this statement and the fact that the Chief Scientist report says that synthetic

field should not be placed on flood prone land or sensitive ecosystems, what advice has council received as to the legal liability of councillors and staff in the event of:

1. *Microplastic and chemical pollution entering Quarry Creek downstream from Norman Griffith oval?*
2. *Damage to the STIF?*

**Council response:**

Council's present position is that liabilities of this nature do not arise. Council does not disclose the content of legal advice, if any, in relation to this matter.

## **Stranded Heritage Items in Transport Oriented Development Precincts**

File: S12198

*Vide: QN.3*

### **QUESTION:**

Question from Councillor Sam Ngai dated 2 May 2024.

Following the publication of the State Government's draft Transport Oriented Development (TOD) precinct mapping, multiple residents have approached councillors with a dilemma. In each case, they live in a locally listed heritage item while being surrounded by properties that have the TOD provisions applied. In the future, this means that they will be walled off by 22m buildings on 2 or 3 sides while also losing access to privacy and amenity.

What assurances or options are available to these residents?

### **RESPONSE:**

*Responses from the Director Strategy & Environment, Andrew Watson:*

Material released by the NSW Government in December 2023 in relation to the TOD Program states:

*".....a merit-based assessment will continue to apply to developments in the 31 TOD-SEPP locations. Relevant environmental controls will apply to the extent they are not inconsistent with the new standards."*

Council's legal advice at the time was, in part:

*"Turning specifically to the issue of heritage conservation areas, I have not identified any part of clause 5.10 of the LEP that will be automatically "switched off" by the new controls. Therefore, where a heritage conservation area overlaps with a TOD zone or a station or town centre precinct, clause 5.10 will continue to apply. Consent in accordance with that clause will still be required for the construction of any building on land in the heritage conservation area or for subdivision of land. The consent authority will continue to be obliged to consider the effect of the proposed development on the heritage significance of the area concerned. However, the government's discussion papers are explicit in saying that the intensification of housing in the identified precincts is to have priority over maintenance of area heritage values. Again, the person assessing the effect of the proposed development on the heritage significance of the area must do so against the underlying fact that whatever its heritage character, the area is one in which*

*residential flat buildings of up to six storeys are permitted. The consent authority will not be prohibited from refusing development on the basis of unacceptable impact on heritage value, but must anticipate that such a refusal will be significantly less likely to be upheld on appeal in light of the new SEPP provisions.”*

*(Michael Hall SC, Nigel Bowen Chambers, 2 February 2024).*

Note here that the provisions of clause 5.10 referenced above apply to both Heritage items and Heritage conservation areas.

State Environmental Planning Policy (Housing) Amendment (Transport Oriented Development) 2024 has now been made and includes the following provision:

***153 Relationship to other environmental planning instruments***

*If there is an inconsistency between this chapter and another provision of this or another environmental planning instrument, whether made before or after the commencement of this chapter, this chapter prevails to the extent of the inconsistency.*

While clause 5.10 Heritage conservation of the *Ku-ring-gai Local Environmental Plan 2015* continues to apply to development applications within Heritage conservation areas and for Heritage items themselves, the primary policy objective of the TOD amendment remains that intensification of housing in the identified precincts is to have priority over maintenance of area heritage values.

In the event that the owner of a Heritage item wants to make the case for delisting, this would be by way of an owner initiated Planning proposal.

Council is not able to give any assurances about the outcome of this process, or the merit assessment or prospective development applications that might have an impact on the setting or context or either a Heritage conservation area or a Heritage items.

**INSPECTIONS– SETTING OF TIME, DATE AND RENDEZVOUS**

NIL

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

NIL

*The Meeting closed at 8:27PM*

The Minutes of the Ordinary Meeting of Council held on 21 May 2024 (Pages 1 - 32) were confirmed as a full and accurate record of proceedings on 18 June 2024.

---

General Manager

---

Mayor / Chairperson