

MINUTES OF EXTRAORDINARY MEETING HELD ON TUESDAY, 4 JUNE 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)
Councillor M Smith (St Ives Ward)
Councillors C Spencer & K Wheatley (Wahroonga Ward)

Staff Present: General Manager (David Marshall)
Acting Director Community (Virginia Leafe)
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 Governance and Corporate Strategy (Christopher M Jones)
Acting Senior Governance Officer (Nicole Kratochvil)

The Meeting commenced at 7:01 PM

The Mayor offered the Acknowledgement of Country and Prayer

111 **APOLOGIES**

File: S02194

The Mayor advised of an apology from Councillor Kay due to work commitments.

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

Resolved:

(Moved: Councillors A. Taylor/Smith)

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 G.Taylor declared a non-significant, non-pecuniary interest in MM.1 – Extraordinary Meeting Background Information and NM.2 - Cancellation of Tiny Forest Project at West Pymble Village Green. Councillor G.Taylor will leave the Chambers during debate on these items.

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:

Memorandums: Letter from Mayor Ngai to Minister for Planning and Public Spaces, dated 31 May 2024 and response received from Minister for Planning and Public Spaces, dated 4 June 2024.

MINUTES FROM THE MAYOR

After having declared an interest on Item MM.1, Councillor G.Taylor withdrew from the Chambers during discussion and did not vote on the matter.

112 **Extraordinary Meeting Background Information**

File: S14099

Vide: MM.1

Under Clause 3.2 of the Code of Meeting Practice, I have received in writing a request from Councillors Spencer and Pettett calling for an extraordinary meeting on the topics of:

1. Transport Oriented Development SEPP - A fresh approach aimed to achieve a better outcome for Ku-ring-gai; and
2. Cancellation of Tiny Forest Project at West Pymble Village Green

I note there have been queries as to the number of extraordinary meetings this year, but the current arrangement of monthly ordinary meetings plus optional extraordinary is actually more flexible and cost efficient than Council's arrangement before June 2019 when ordinary meetings were held twice a month.

On each of these two topics, I write to provide information to set the context of each decision.

Transport Oriented Development Provisions in the Housing SEPP

Ever since this issue arose in November 2023, I have provided the public with regular updates by way of Mayoral Minute at the start of each monthly ordinary meeting as well as each relevant extraordinary meeting. A summary of key dates and points is provided in Attachment 1.

It should also be noted that at this stage and despite all attempts to negotiate reasonable outcomes, legal action and/or mediation is the only way for council to

potentially save ratepayers over ten million in infrastructure costs relating to the four affected precincts.

Tiny Forest Project

The Tiny Forest program is an initiative by Earthwatch to provide “*densely packed patches of native bushland the size of a tennis court, right in the heart of our cities. These urban wildlife oases are a unique nature-based solution, reconnecting people with nature and helping to mitigate our urban climate and biodiversity challenges.*”

As part of the initiative, Council staff had (independent of any Councillor direction) applied for a grant and was successful in attaining one. Ku-ring-gai’s Tiny Forest Project was considered as part of GB17 in the 21 November 2023 Ordinary Meeting of Council.

Resolved:

(Moved: Councillors Pettett/Kay)

That Council endorse a Tiny Forest Project within the Ku-ring-gai LGA and endorse the preferred site location at the West Pymble Village Green, or an alternative site as determined by Council officers.

CARRIED UNANIMOUSLY

It is important to respect any Councillor’s right to revisit a decision in light of new information. It should be noted that when the project was first put before the Council, the affected area was proposed to be 218.56 sqm (4.3%) of a 5,124.0 sqm site.



A recently updated project design now indicates that a more substantial 260 sqm

(5.1%) of the site will be covered by newly planted trees. Part of the community angst is driven by the fact that the temporarily fenced off area for equipment and works is much larger than the actual planting site.



The Tiny Forest is scheduled to be planted on 16 June, which is prior to our Ordinary Meeting of Council on 18 June hence this call for an extraordinary meeting.

More project information is available in Attachment 2, and each Councillor has the right to revisit this decision in light of the new information.

Resolved:

(Moved: The Mayor, Councillor Ngai)

That Council notes and receives this Mayoral Minute.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

113 **Transport Oriented Development SEPP - A fresh approach aimed to achieve a better outcome for Ku-ring-gai**

File: S14427

Vide: NM.1

Notice of Motion from Councillors Spencer and Pettett dated 27 May 2024

The new "TOD SEPP" planning controls came into effect from 13 May 2024, and include: Permissibility – Allowing residential flat buildings in residential zones and local centre zones, along with shop top housing in local centre and commercial zones.

As you are aware, the four stations in Ku-ring-gai affected by the TOD SEPP will be Gordon, Killara, Lindfield and Roseville. Ku-ring-gai is the only Council to receive the new TOD SEPP without further extension.

We do not believe that Council's continued spending of ratepayers' money on advertising and legal fees is sustainable in the longer term. We do not believe that battling the NSW Government is efficient or effective.

The reality is that the new "TOD SEPP" planning controls came into effect from 13 May 2024 for Ku-ring-gai whereas other councils were granted extensions. The reality is that Ku-ring-gai has to try and work with the NSW Government by negotiating.

The current Council approach has led to many residents being traumatised, bewildered and confused. The community should not be in this current state and this needs to be rectified.

We, therefore, move that:

- A. Ku-ring-gai Council wishes to constructively work with the Minister in regards to the new TOD SEPP
- B. This Council immediately assembles a working team including former Mayors Cedric Spencer and Jeff Pettett and Councillor Greg Taylor.
- C. To seek an urgent audience with the New South Wales Minister for Planning and Public Spaces to discuss the following:
 - i. Ku-ring-gai Council's genuine intentions to negotiate with the Minister in good faith on behalf of all Ku-ring-gai residents in implementing the new TOD SEPP
 - ii. Council's intentions to draw up a new LEP by working with the Minister to achieve the housing needs
 - iii. Council to seek reprieve from implementation of the new TOD SEPP on 13 May 24 on all four stations, including Gordon, Killara, Lindfield and Roseville.
- D. As a genuine sign of Council's willingness to work with the state government that Council suspend the current legal action pending the result of the discussions and negotiations.
- E. This team of negotiators will include the General Manager and relevant staff but exclude Councillors who have already met with the Minister or his Department.

- F. This team will report back to Council as an urgent matter as time is of the essence.

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Resolved:

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For the Resolution: Councillor Spencer

Against the Resolution: The Mayor, Councillor Ngai, Councillors Lennon, Pettett, Smith, A. Taylor, G. Taylor, Ward and Wheatley

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

After having declared an interest on Item NM.2, Councillor G. Taylor withdrew from the Chambers during discussion and did not vote on the matter.

Cancellation of Tiny Forest Project at West Pymble Village Green

File: S14514

Vide: NM.2

Notice of Motion from Councillors Spencer and Pettett dated 27 May 2024

In November 2023 Council resolved to proceed with the Tiny Forest Project based on the following summary.

The proposed Tiny Forest project led by Earthwatch Australia, is a unique opportunity to engage with the community and increase the amenity of the surrounding urban area. The project is privately funded and promotes community engagement and research into boosting growth and biodiversity of native forests.

The West Pymble Village Green has been identified as a suitable site for tree planting within the Urban Forest Strategy and the southern boundary has been chosen in the past as a National Tree Day site. Tree species to be planted will be native to the area and align with the local Critically Endangered Ecological Community Sydney Turpentine Ironbark Forest (STIF). Establishment of this tiny forest will add environmental restrictions to any future use of the land which would require the removal of the Tiny Forest.

The Community Consultation was based on the broad statement: "As part of Council's adoption of the Urban Forest Policy in 2020 and development of the Urban Forest Strategy since then, the community has been consulted extensively about trees including both public and private tree management and issues."

The local West Pymble community believe there was no real consultation in regards to this project being built. The site may well be a suitable site for this project; however, the recent feedback has been overwhelmingly clear that the majority of the community of West Pymble were not aware of this project, nor do they want it at this location. If a Tiny Forest project is to be successful at an alternative location, proper local community engagement prior to its commencement is essential for its success.

We, therefore, move:

That Council cancels the Tiny Forest Project at the West Pymble Village Green.

The motion lapsed for lack of a seconder.

The Meeting closed at 7.55PM

The Minutes of the Extraordinary Meeting held on 4 June 2024 (Pages 1 - 8) were confirmed as a full and accurate record of proceedings on 18 June 2024.

General Manager

Mayor / Chairperson