



5th April, 2002

EXTRAORDINARY COUNCIL MEETING

NOTICE IS HEREBY GIVEN THAT AN EXTRAORDINARY COUNCIL MEETING OF THE COUNCIL OF THE CITY OF RANDWICK WILL BE HELD IN THE COUNCIL CHAMBER, TOWN HALL, 90 AVOCA STREET, RANDWICK, ON TUESDAY, 9TH APRIL, 2002 AT 5:45 PM.

- 1 Council Prayer**
- 2 Apologies**
- 3 Addresses to the Council by the Public**
- 4 Mayoral Minute**
- 4.1 MAYOR'S MINUTE 21/2002 - AMENDMENT TO COUNCIL'S CODE OF MEETING PRACTICE. 2
- 5 Confidential Reports**
- 6 Committee-of-the-Whole**
- 7 Report of the Committee-of-the-Whole**
- 8 Notice of Rescission Motions**

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GENERAL MANAGER



MAYOR'S MINUTE 21/2002

SUBJECT:	Amendment to Council's Code of Meeting Practice
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DATE:	4 April, 2002	FILE NO:	98/S/1738
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REPORT BY: MAYOR

INTRODUCTION:

Recently a request was made under Council's Code of Meeting Practice for the issue of a construction certificate to be referred to Council for determination. As the issue of such a certificate requires technical assessment under the provisions of the relevant legislation, I considered it appropriate to seek advice from Council's solicitors on the matter.

ISSUES:

Briefly, Council's Code of Meeting Practice (Policy No. 1.01.02) provides that three Councillors may, by notice in writing, request the General Manager bring a matter to Council for consideration. The relevant section of the Code of Meeting Practice is Section 11 (3).

However, it is my view that Council's Code of Meeting Practice did not intend to extend the right to "call up" matters to items such as construction certificates, or indeed other certificates covered by part 4A of the *Environmental Planning and Assessment Act 1979*. As the legal advice (attached) points out, the issue of a construction certificate involves a technical assessment of compliance with the development approval and the BCA. Such requires a technical knowledge of the BCA and other matters.

The legislation provides Council with the opportunity to deal with merit issues at the development application stage. Having Council subsequently seek to determine construction certificates opens up the possibility that merit issues will impact on what should be a technical assessment process. Such a course of action would leave Council open to potential adverse consequences, as set out in the legal advice.

CONCLUSION:

As it is clear the intention of the *Environmental Planning and Assessment Act 1979* was to ensure a separation of merit issues (development consent) and assessment of technical compliance (construction and other certificates), I consider it appropriate that Council amend its Code of Meeting Practice to preclude the "call up" of those matters covered by

Part 4A certificates (construction certificates, occupation certificates, compliance certificates and sub-division certificates).

As the proposed amendment to Council's Code of Meeting Practice affects only Councillors in the exercise of their roles, it is my view that the amendment can be adopted forthwith and does not require advertising.

RECOMMENDATION:

That Council's Code of Meeting Practice, Policy No. 1.01.02, be amended as follows (changes set out in bold type):

- (a) "11. (3) Requested Items – Committee and Council Meetings
- (i) That Councillors requesting that an item, which is to be dealt with under delegated authority, be brought to Council for consideration, do so in writing, signed by at least three (3) Councillors, to the General Manager, OR items, which are to be dealt with under delegation, and which have not been the subject of a request to be brought before Council by at least three (3) Councillors, and for which the General Manager considers that compelling exceptional circumstances exist, the General Manager may bring such matters before Council.
- (ii) **However, sub-clause (i) specifically excludes the call up of Part 4A certificates, complying development certificates and building certificates under the *Environmental Planning and Assessment Act 1979*.**"
- (b) That the Policy Register be amended accordingly.

ATTACHMENT/S:

Legal advice (Confidential - circulated separately)

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DOMINIC SULLIVAN
MAYOR