

General Manager's Report No. GM13/11 Council Meeting 24/5/11

Subject: Administration of Kingsford South Precinct
Folder No: F2004/08212
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Introduction

At the Council meeting of 22 February 2011, the Council considered a Mayoral Minute on the administration of the Kingsford South precinct, and whether it was operating within the Rules and Procedures of precincts.

At that meeting the Council resolved that:

- a) an external review is conducted into the administration and operation of the Kingsford South precinct by an independent consultant; and
- b) the General Manager meet one on one with the recently appointed Chairperson of the Kingsford South Precinct to discuss Council's concerns and the obligations of precinct office holders.

Council is now in receipt of the external review by the independent consultant, Mitchell Morley of the firm InConsult.

In addition to the issues surrounding the administration of the precinct, the current secretary of the precinct, Mr Andrew Roydhouse made a series of allegations and complaints over the period November 2010 to March 2011 regarding the conduct of the Mayor and Council staff. These complaints and allegations have also been independently investigated.

Further complaints and allegations concerned the public exhibition process for the Randwick Education and Health Centre Specialised Discussion Paper. In response to these complaints and allegations, the Council asked for and received an independent investigation by external consultant, Jeremy Bingham.

Council staff have communicated with the Chair of the precinct on a number of occasions by phone and email to arrange a one on one meeting between the precinct chair and the General Manager to discuss Council's concerns and the obligations of precinct office holders. To date the precinct chair has not nominated a time or date for that meeting.

Issues

1. Administration of the Kingsford South precinct.

Background

The Council, in pursuing its commitment to community engagement, has established Precinct meetings throughout the City.

Precinct meetings are convened by residents and supported by Council. They play a vital role in ensuring that future changes in the City of Randwick take residents' views into account. Precincts have been established to increase the flow of information between the Council and the community and to provide residents with an opportunity to be more active in the decision making process. Precincts are not decision-making bodies, but act as a conduit, moving issues and opinions between the community and Council. The precincts play a significant role in the Council's suite of community consultations strategies.

The Council's precinct system operates within the framework of the "Randwick City Rules and Procedures for Precincts". These Council endorsed Rules and Procedures were developed in close consultation with precincts. The Rules and Procedures, and each subsequent modification, were endorsed by the Precinct Coordination Committee, prior to being submitted to the Council for ratification. The Council most recently reviewed and approved these Rules and Procedures at its meeting of 14 December 2010.

A copy of the Rules and Procedures are attached to this report as **Attachment 1**.

It is the Council's experience that each of the precincts, with the single exception of the Kingsford South precinct, makes a conscientious attempt to comply with the Precinct Rules and Procedures.

External review of the Kingsford South precinct and findings

The Council resolution of 22 February 2011 required the Council to conduct an external review into the administration and operation of the Kingsford South precinct by an independent consultant.

The Council engaged Mr Mitchell Morley from the firm InConsult Pty Ltd to undertake this review. The report from this review has now been received from Mr Morley.

A copy of the review is included with this report as **Attachment 2**.

Mr Morley has concluded that the Kingsford South precinct is not complying with a number of provisions in the Precinct Rules and Procedures.

He states in his conclusion:

"Based on our review of documentation provided by both Council and the Precinct and our observations from attendance at the Precinct Meeting on 13 April 2011, the Kingsford South Precinct is currently not complying with the requirements of Randwick City Council's Precinct Rules and Procedures in the following respects:

- Provision of an agenda for Precinct Meetings
- Preparing and circulating minutes of Precinct Meetings
- Conducting meetings in accordance with standard meeting procedure
- Making unauthorised media comments

It is also clear from the responses provided by both Council and the Precinct that there has been a serious breakdown in the relationship between the two parties. This breakdown needs to be addressed if the Precinct is to continue to operate in the manner intended."

It is the documented experience of the Council that these breaches of the Rules and Procedures in relation to provision of an agenda for Precinct Meetings, preparing and circulating minutes of precinct meetings and conducting meetings in accordance with standard meeting procedure have been occurring since 2005.

During this period from 2005 to date, Andrew Roydhouse has essentially been the precinct leader and has exercised the functions of both chair and secretary of the precinct. As the Council noted in its submission to the external review:

“Council’s experience is that Andrew Roydhouse has fulfilled the roles of both secretary and chair of the precinct since at least June 2005. Whenever a Council officer has attended a meeting of the Kingsford South precinct, the meeting has been chaired by Andrew Roydhouse, whether he was nominally the chair or the secretary of the precinct at the time. Between June 2005 and the commencement of the review, the Council has had no communication from any other person representing the Kingsford South precinct.”

Mr Morgan has not, to Council’s knowledge, exercised the role of Chairperson at any meeting of the precinct, notwithstanding the express provisions of the precinct Rules and Procedures. It is noted that during this period all correspondence has been received from Mr Roydhouse. Mr Roydhouse has chaired all meetings of the precinct, notwithstanding that his position may have been secretary.

It is important that this issue be addressed at the future meeting between Mr Morgan and the General Manager.

Mr Morley noted in his report that:

“The Rules do not currently contain any provisions or procedures for dealing with noncompliance by Precincts. Accordingly, we are not able to recommend any particular course of action in relation to the apparent breaches of the Rules identified in this report. It is entirely a matter for Council to determine what action, if any, is appropriate in the circumstances.”

The Report recommends that Council:

- “1. Note the findings of this report and determine what action, if any, is appropriate in the circumstances; and
2. Consider making the following changes to the Precinct Rules and Procedures:
 - a. Specifying that no one person should remain on the Executive (regardless of the actual position they hold) for longer than two years and outlining the circumstances in which approval may be given by the General Manager to waive this requirement;
 - b. Requiring each Precinct to include an appropriate Privacy Notification Statement on the attendance sheet that clearly spells out why Council requires people to provide their personal information and what Council proposes to do with it;
 - c. Include guidelines for the use of social media by Precincts; and
 - d. Include provisions or procedures for dealing with non-compliance by Precincts.”

2. Complaints by Andrew Roydhouse against Council, the staff and the Mayor

These allegations and complaints related to the public exhibition process for the Randwick Education and Health Centre Specialised Discussion Paper.

On 31 March 2011, the Council received a submission from Andrew Roydhouse as secretary of the Kingsford South precinct on the Randwick Education and Health Centre Specialised Discussion Paper.

Andrew Roydhouse's submission is included in this report as **Attachment 3**.

This submission contained a number of serious allegations and complaints against the Council, Council staff and the Mayor regarding the public exhibition process and the actions and statements of Council staff and the Mayor in relation to the public exhibition.

Council engaged an independent consultant, Mr Jeremy Bingham to investigate these complaints and allegations and audit the Council's public exhibition process.

Mr Bingham investigated and reported on 11 allegations by Andrew Roydhouse.

The following is a summary of the findings by Mr Bingham against each of the allegations by Andrew Roydhouse:

Allegation 1: Assertion that factually incorrect information has been repeatedly issued by Council and its officers and Mayor.

Finding: This vague and unsubstantiated assertion does not warrant further investigation.

Allegation 2: Imputation that Council has consulted only with developers, large-scale landholders and the previous State Government.

Finding: I find that this imputation has no substance.

Allegation 3: Assertion that the title of the Discussion Paper is misleading and deceptive.

Finding: I am satisfied that the title of the Discussion Paper accurately and appropriately conveys its purpose and content. The title is not misleading or deceptive in any way.

Allegation 4: Imputation that Council's proposals for the Centre are not concerned with improved facilities for health, education and research but simply a move to rezone existing low density residential areas for 6 to 8 storey residential flats development

Finding: I find that this imputation has no substance at all.

Allegation 5: Imputation that sketches of "non-existent buildings" could have misled residents to believe that planned 6-8 storey towers were not out of place.

Finding: I find that this imputation has no substance at all.

Allegation 6: Imputation that Council is deliberately misleading residents, failing to operate in a professional manner and being negligent in fulfilment of its obligations in asserting that Council is being forced to increase residential density by State Government policies.

Finding: I find that this imputation has no substance at all.

Allegation 7: Assertion that the Manager Strategic Planning, by late February, had not returned a phone call made in November.

Finding: This trivial assertion does not warrant further investigation.

Allegation 8: Assertion that Council's website has contained factually incorrect information which despite prompting was not rectified for months or at all. For example, the closing date for submissions was not changed from December 2010 until late March 2011, potentially causing many residents to miss the chance to put in a submission.

Finding: I find that there is no substance in this assertion.

Allegation 9: Assertion that the Discussion Paper contains many misleading or confusing statements. It leaves residents at a disadvantage because it does not provide hard numerical data on the actual areas to be rezoned.

Finding: I find that there is no substance in this assertion.

Allegation 10: Assertion that the Mayor has said verbally and in print that misinformation is being spread but has not given details, leading to "a high level of disquiet" amongst Randwick residents.

Finding: I find that there is no substance in this assertion.

Allegation 11: Assertion that misleading statements were made by Council Officers at the November 3 Combined Precincts Meeting.

Finding: This vague and unsubstantiated assertion does not warrant further investigation.

Following this thorough investigation, Mr Bingham concluded that:

"It is clear that Mr Roydhouse is strongly opposed to any change of zoning which would allow any increased density of development anywhere in the Centre study area. His views of the planning merit of Council's proposals must, and no doubt will, be taken into consideration. Unfortunately, he appears to have formed the view that an attack on the integrity and professional ability of Council's planning staff (and of the Mayor) will somehow advance his cause.

His assertions and imputations, however, are all vague and unsubstantiated, completely lacking in substance, or trivial. I can find no fault with the handling of this matter by Council's planning staff, who have all acted with propriety, impartiality and professional competence. Equally, I can find no fault with the actions of the Mayor in this matter."

The complaint by Mr Roydhouse should be dismissed in its entirety."

The full text of this external investigation by Mr Bingham is included with this report as **Attachment 4**.

Relationship to City Plan

The relationship with the City Plan is as follows:

Outcome 3: An informed and engaged community.

Direction 3c: A community involved in shaping and enhancing our City.

Financial impact statement

There is no direct financial impact for this matter.

Conclusion

The Morley Report identified that the Kingsford South precinct is not complying with a number of important Precinct Rules and Procedures and that it was up to the Council to determine an appropriate course of action.

The Bingham Report dismissed all the allegations and complaints made by Andrew Roydhouse, representing the precinct. Council's legal advice states that, on the information available, the South Kingsford precinct has comprehensively failed to comply with the Precinct Rules and Procedures.

In the Council Rules and Procedures for precincts, the objectives of the precinct system are:

- to encourage community engagement by developing a sense of community between the Council, community and the local environment
- to facilitate continuous, clear two-way communication between Randwick City Council and the community
- to provide a formal system of information transfer between residents, property owners, tenants and Council, and
- to encourage residents' and property owners' contribution to Council's decision making process.

It is evident from the findings of the external and independent investigations undertaken for the Council – the Morley report and the Bingham Report - that these objectives are not being achieved by the South Kingsford precinct under the leadership of Andrew Roydhouse.

It is also clear that, because of the actions of the precinct under the leadership of Andrew Roydhouse, there has been a breakdown in the relationship between the precinct on one hand and the Council, the Council staff and the Mayor on the other hand.

The Morley report also makes a number of recommendations on future changes to the Precinct Rules and Procedures for the consideration of the Council. As the Rules and Procedures are developed in conjunction with precincts, it is proposed that that a community consultation process that includes the precincts and the Precinct Coordination Committee be developed to incorporate the changes to the Rules and Procedures.

The findings of the Bingham report clearly demonstrate the extent to which the Kingsford South precinct under Andrew Roydhouse's leadership has failed to encourage a sense of community between the Council, the community and the local environment.

Recommendation

That:

- a) the Council note the contents of this report and the findings of the Morley Report and the findings of the Bingham Report.

b) in relation to the Kingsford South precinct:

(i) the Council inform the Kingsford South precinct that Andrew Roydhouse is no longer acceptable to the Council to hold a precinct executive or leadership position

(ii) the Council inform the Kingsford South precinct that it will no longer communicate with precinct through Andrew Roydhouse, or accept communications from the precinct through Andrew Roydhouse

(iii) the Council inform the Kingsford South precinct of the need to hold elections to replace Andrew Roydhouse as a member of the precinct executive.

(iv) the General Manager takes steps to ensure that the Kingsford South precinct meetings are monitored for the next 12 months to ensure that Andrew Roydhouse does not exercise an executive or leadership role in precinct meetings and

(vi) the General Manager include in his discussions with the current chair of the precinct the requirements of the precinct executive, and in particular the chair, to guide the precinct as set out in the Precinct Rules and Procedures, and

(v) a future report be provided to the Council on the precinct compliance with these requirements.

c) in relation to the findings of the Morley Report:

(i) the Council, in consultation with the Precinct Coordination Committee, commence a process of making the following changes to the Precinct Rules and Procedures:

- Specifying that no one person should remain on the Executive (regardless of the actual position they hold) for longer than two years and outlining the circumstances in which approval may be given by the General Manager to waive this requirement;
- Requiring each Precinct to include an appropriate Privacy Notification Statement on the attendance sheet that clearly spells out why Council requires people to provide their personal information and what Council proposes to do with it;
- Include guidelines for the use of social media by Precincts; and
- Include provisions or procedures for dealing with non-compliance by Precincts.

(ii) a further report be provided to the Council to seek endorsement to the changes to the Precinct Rules and Procedures, after consultation with precincts and the Precinct Coordination Committee.

Attachment/s:

1. [View](#) Randwick City Rules and Procedures for Precincts

2. [View](#) Review of Kingsford South Precinct

3. [View](#) Kingsford South Precinct REHSC submission

4. [View](#) Investigation Report - Jeremy Bingham - Consultant - Investigation of Complaint by Kingsford South Precinct

9 May 2011

The General Manager
Randwick City Council
31 Frances St
RANDWICK NSW 2031

Dear Mr Brownlee

**Re: Randwick Education and Health Specialised Centre Discussion Paper
Complaint by Mr Andrew Roydhouse for Kingsford South Precinct.**

In accordance with your instructions of 15-04-11 I have conducted an investigation into the complaint against Council, its staff and the Mayor made by Mr Andrew Roydhouse, Secretary of the Kingsford South Precinct, by letter to you dated 31-03-11.

For the purpose of my investigation I have reviewed the Discussion Paper itself (Parts A & B) plus comprehensive supporting and explanatory documents and have obtained a detailed statement from Karen Armstrong, Manager, Strategic Planning. It should be noted in passing that Sima Truuvert, Director of City Planning, has very properly declared an interest and excused herself from any participation in this matter because her home is in the Centre study area.

I have considered whether the complaint discloses any prima facie breach of Council's Code of Conduct and the relevant provisions of the Local Government Act.

The complaint makes a number of specific assertions and imputations which are set out hereunder, identified by the paragraph in the complaint, together with my comments and findings.

1. Assertion that factually incorrect information has been repeatedly issued by Council and its officers and Mayor. (Par.2)

Apart from the question of the stated closing date for public submissions, which is dealt with later, I have been unable to find any evidence of the issuing of factually incorrect information by Council or by its officers or Mayor.

This vague and unsubstantiated assertion does not warrant further investigation.

2. Imputation that Council has consulted only with developers, large-scale landholders and the previous State Government. (Par.3)

This appears to be a reference to the Technical Working Group established by Council in liaison with the Department of Planning to guide research into a Precinct plan for the Randwick Education and Health Specialised Centre identified in the Government's Metropolitan Plan and draft East Sydney Subregional strategy. The Group included representatives from the Department of Planning, Council, UNSW, Prince of Wales

Hospital, Sydney Children's Hospital, AJC, South East Sydney/Illawarra Area Health Service, Randwick TAFE, Department of State & Regional Development, STA, RTA and Ministry of Transport.

The establishment of this Working Group was an entirely appropriate way to commence the preparation of the strategy and planning for the Centre, leading to the issue of the Discussion Paper for the purpose of wider public comment and consultation. The very issue and dissemination of the Discussion Paper belies the imputation that Council has not engaged in wide public consultation.

I find that this imputation has no substance.

3. Assertion that the title of the Discussion Paper is misleading and deceptive. (Par.4)

I find that there is no substance in this allegation. The title of the document is Randwick Education and Health Specialised Centre Discussion Paper, and the Executive Summary states that it is one of six papers being prepared to inform Council's preparation of a comprehensive LEP and DCP. The Centre is identified in the NSW Government's Sydney Metropolitan Strategy and draft East Sydney Subregional Strategy as a Specialised Centre.

The purpose of the Discussion Paper is stated as being to "commence a consultation and exhibition process, for community feedback on its contents and proposals".

I am satisfied that the title of the Discussion Paper accurately and appropriately conveys its purpose and content. The title is not misleading or deceptive in any way.

4. Imputation that Council's proposals for the Centre are not concerned with improved facilities for health, education and research but simply a move to rezone existing low density residential areas for 6 to 8 storey residential flats development. (Pars.5-7)

Both parts of the Discussion Paper clearly focus on the growth and development of the Centre to an international standard of excellence and as a Metropolitan and regional facility. If Council's purpose were merely to rezone existing residential areas for higher density development there would be no need for the identification and special planning of the Centre.

I find that this imputation has no substance at all.

5. Imputation that sketches of "non-existent buildings" could have misled residents to believe that planned 6-8 storey towers were not out of place. (Par.7)

Council's Walking Tour Sketchbook, prepared and distributed as a further aid to public involvement and consultation, contains a number of sketches giving an artist's impression of how various areas could look in the future, as compared with photographs of those areas now. This is clearly set out in the Introduction to the Sketchbook. These sketches, of course, show many "non-existent buildings", but they are not misleading in any way.

I find that this imputation has no substance at all.

6. Imputation that Council is deliberately misleading residents, failing to operate in a professional manner and being negligent in fulfilment of its obligations in asserting that Council is being forced to increase residential density by State Government policies. (Pars.9-13)

The complainant alleges that Council has already achieved its target of 8,400 new dwellings in its area by 2031. I have seen the report dated 12-04-11 prepared by Council's Planning Department estimating that the total number of dwellings already built since 2005, or approved, is 3,742. This is less than half of the target. Further, the resolution of Council of 14-12-11 adopting Mayoral Minute MM75/10 limits the number of new dwellings in the Centre to 1,500.

I can see nothing untoward in the way in which Council staff, the Mayor and Council have dealt with this issue.

I find that this imputation has no substance at all.

7. Assertion that the Manager, Strategic Planning, by late February had not returned a phone call made in November. (Par.14)

The officer in question has no recollection of such a call, but even if the assertion is true, it is quite trivial. In the ordinary course of any daily business, phone calls are often not returned for one reason or another. Normal behaviour is for the caller to call again or to email or write, and not to complain unless several attempts to get a response have failed. Relevant contact numbers have been provided on all public information about the proposed Centre.

This trivial assertion does not warrant further investigation.

8. Assertion that Council's website has contained factually incorrect information which despite prompting was not rectified for months or at all. For example, the closing date for submissions was not changed from December 2010 until late March 2011, potentially causing many residents to miss the chance to put in a submission. (Pars.15-16)

The general assertion about factually incorrect information is too vague and unsubstantiated to warrant further investigation.

As to the specific assertion about the amended closing date for submissions, the final paragraph of the Executive Summary in Part A of the Discussion Paper invites written comments on the Paper, but does not specify any closing date. The Summary Document for Public Consultation does contain, under the heading Next Steps, a deadline for comments, namely, 3 December 2010. It is true that Council continued to issue this document, without reprinting it with an amended deadline, after the exhibition period was extended to March 2011. I am informed, however, that updated brochures were provided with all hard copies of the Summary Document issued after the closing date was extended, that all Precincts were notified by email and that the extended period for submissions was notified on Council's website and in the local paper.

In my view it would be unreasonable to expect Council to reprint a full colour document like the Summary Document just to change the specified closing date for submissions. The steps which Council did take to inform the public of the amended closing date were reasonable and adequate. There is no evidence and no complaint of any resident actually missing the chance to put in a submission.

I find that there is no substance in this assertion.

9. Assertion that the Discussion Paper contains many misleading or confusing statements. It leaves residents at a disadvantage because it does not provide hard numerical data on the actual areas to be rezoned. (Par.17)

The general assertion that the Paper contains many misleading or confusing statements is too vague and general to warrant further investigation. The specific assertion of disadvantage to residents because of a lack of "hard numerical data" appears to be based on a misunderstanding of the nature and purpose of the Discussion Paper.

The Discussion Paper is not, and does not purport to be, a firm rezoning proposal such as a draft LEP or even a draft DCP. As stated in the Executive Summary, the Paper "investigates and provides strategies to accommodate and direct the growth" of a Specialised Centre already identified in major State Government planning documents. It suggests planning and design controls and seeks public discussion and input. The Discussion Paper is clearly adequate to be what it says it is, a discussion paper.

I find that there is no substance in this assertion.

10. Assertion that the Mayor has said verbally and in print that misinformation is being spread but has not given details, leading to "a high level of disquiet" amongst Randwick residents. (Par.18)

In December 2010 Council issued a brochure containing a signed message from the Mayor stating his concern that some misinformation about the Discussion Paper was being deliberately spread within the community. The brochure set out, in question and answer form, a number of facts designed to alleviate the anxieties of some residents caused by that misinformation.

There is no evidence of "a high level of disquiet" amongst Randwick residents. It is to be noted that the Centre study area lies partly within four precincts, namely Kensington, Randwick, Kingsford South and The Spot. Council has not received any assertions or imputations of improper conduct in relation to the Discussion Paper from any Precinct other than the Kingsford South Precinct.

The Mayor has said in print that misinformation about the Discussion Paper has been spread in the community, but any lack of specific detail has not given rise to a high level of disquiet amongst local residents.

I find that there is no substance in this assertion.

11. Assertion that misleading statements were made by Council Officers at the November 3 Combined Precincts Meeting. (Par.19)

Neither Karen Armstrong nor Joanna Hole, the two planning officers who attended the Combined Precincts Meeting, are aware of any misleading statements made by them, nor have they had any subsequent queries or complaints (other than this present complaint by Mr Roydhouse).

This vague and unsubstantiated assertion does not warrant further investigation.

Conclusion.

It is clear that Mr Roydhouse is strongly opposed to any change of zoning which would allow any increased density of development anywhere in the Centre study area. His views of the planning merit of Council's proposals must, and no doubt will, be taken into consideration. Unfortunately, he appears to have formed the view that an attack on the integrity and professional ability of Council's planning staff (and of the Mayor) will somehow advance his cause.

His assertions and imputations, however, are all vague and unsubstantiated, completely lacking in substance, or trivial. I can find no fault with the handling of this matter by Council's planning staff, who have all acted with propriety, impartiality and professional competence. Equally, I can find no fault with the actions of the Mayor in this matter.

The complaint by Mr Roydhouse should be dismissed in its entirety.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jeremy Bingham', with a stylized flourish above the name.

Jeremy Bingham