



WARRINGAH  
COUNCIL

# MINUTES

## ORDINARY COUNCIL MEETING

held at the Civic Centre, Dee Why on

**TUESDAY 4 AUGUST 2015**

(2015/7)



**Minutes of an Ordinary Meeting of Council**  
**held on Tuesday 4 August 2015**  
**at the Civic Centre, Dee Why**  
**Commencing at 6:02pm**

**ATTENDANCE:**

**Members**

Councillors J Menano-Pires (Deputy Mayor), P Daley, V De Luca OAM, B Giltinan, R Harrison, S Heins, D Kerr and V Moskal

**Officers**

Rik Hart	General Manager
John Warburton	Deputy General Manager Community
Malcolm Ryan	Deputy General Manager Environment
Vivienne Ingram	Executive Legal Counsel
Melissa Lee	Governance Special Project
Ximena Von Oven	Administration Officer Governance
Dinesh Mishra	IM&T Support Officer
David Walsh	Chief Financial Officer
Peter Robinson	Group Manager Strategic Planning
Belinda Noble	Media and Content Manager

**NOTES**

The meeting commenced at 6:02pm, adjourned at 7:34pm, resumed at 7:43pm, and concluded at 8:51pm

## 1.0 APOLOGIES

### 135/15 RESOLVED

#### ***Cr Giltinan / Cr Kerr***

That an apology for non-attendance be received from Mayor Michael Regan and Councillor Wayne Gobert.

#### **VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan, Harrison, Heins, Kerr, Menano-Pires and Moskal

**Against the resolution:** Nil

#### **CARRIED**

## 2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

### 2.1 MINUTES OF ORDINARY COUNCIL MEETING HELD 23 JUNE 2015

### 136/15 RESOLVED

#### ***Cr Harrison / Cr Heins***

That the Minutes of the Ordinary Council Meeting held 23 June 2015, copies of which were previously circulated to all Councillors, are hereby confirmed as a true and correct record of the proceedings of that meeting.

#### **VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan, Harrison, Heins, Kerr, Menano-Pires and Moskal

**Against the resolution:** Nil

#### **CARRIED**

## 3.0 DECLARATION OF PECUNIARY INTEREST AND CONFLICTS OF INTEREST

Councillor Heins declared a significant, non-pecuniary interest in relation to Item 8.1, as she has had long term connections with the Rotary Club of Brookvale, particularly the Pub to Pub Charity Fun Run and Walk Event as she has been involved with for many years and Item 13.3 as she is the Director on the Board for the Manly Warringah Women's Resource Centre.

Councillor Daley declared a less than significant, non-pecuniary interest in relation to Item 10.1 as he has a property at North Manly. The Salvation Army has expressed an interest in this issue. He is associated and works indirectly with the Salvation Army. He also declared a less than significant, non-pecuniary interest in relation to Item 10.3, as he has properties in Dee Why Parade.

Councillor Moskal declared a less than significant, non-pecuniary interest in relation to Item 13.1, as she lives in Brookvale, however she doesn't own the apartment, her father owns the apartment.

**PROCEDURAL MOTION - EXTENSION OF PUBLIC FORUM PERIOD****137/15 RESOLVED*****Cr Menano-Pires / Cr De Luca***

That Council extend the public forum period beyond the thirty minutes as provided for in Clause 12.1 (ii) of the Code of Meeting Practice and that all speakers who requested to speak at Public Forum be granted permission to address Council.

**VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan, Harrison, Heins, Kerr, Menano-Pires and Moskal

**Against the resolution:** Nil

**CARRIED****4.0 PUBLIC FORUM**

The Deputy Mayor requested each speaker to acknowledge they had been informed that the meeting was to be webcast live and that Council accepts no responsibility for any defamatory comments made.

- 4.1 Angus McLean addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why .**
- 4.2 George Metcalfe addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.**
- 4.3 David Murray addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.**
- 4.4 Ross Pangallo addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.**
- 4.5 Peter Xin addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.**
- 4.6 Oldrich Kovarik addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.**
- 4.7 Martin Franklin addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.**
- 4.8 Gary Hatcher addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.**
- 4.9 Babette Hatcher addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.**
- 4.10 Christopher Birch addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.**
- 4.11 Bill Reilly addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.**

- 4.12 Ryan Girdler representing Proprietor of Girdlers addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.
- 4.13 Wolfgang Kraft representing Proprietor of Sea Change Café addressed Item 10.3, Notice of Motion No 18/2015 - Development Application Boat Shed Kiosk Dee Why.

NOTE: Marye Jane Nicholson was not in attendance, however the Deputy Mayor requested that her statement was circulated to the Councillors at the meeting

*Councillor Kerr left the meeting at 6:54pm*

#### PROCEDURAL MOTION - MOTION OF URGENCY

##### ***Cr De Luca / Cr Daley***

That as a matter of urgency, Council considers the following motion:

That in view of community concern this Council requests the General Manager to ensure that owners consent for a Development Application for the Boat Shed, Dee Why is not granted by Warringah Council.

***Deemed out of order by the Deputy Mayor as it is unlawful for Council to withhold owners consent.***

#### PROCEDURAL MOTION - MOTION OF URGENCY

##### **138/15 RESOLVED**

##### ***Cr De Luca / Cr Daley***

That as a matter of urgency, Council considers the following motion:

That this Council calls upon the Independent Commission Against Corruption to investigate Warringah Council's handling of all matters pertaining to the Dee Why Boat Shed and the numerous complaints about this Kiosk.

#### **VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan, Harrison and Moskal

**Against the resolution:** Crs Heins and Menano-Pires

#### **CARRIED**

NOTE: The Deputy Mayor subsequently ruled that the matter was one of urgency and that the Item would be dealt with as the last Item on the Agenda

**PROCEDURAL MOTION - CHANGE TO ORDER OF BUSINESS****139/15 RESOLVED*****Cr De Luca / Cr Daley***

That the Order of Business be changed so Items 10.3 and the Motion of Urgency be brought forward and dealt with immediately.

**VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan, Harrison, Heins, and Moskal

**Against the resolution:** Cr Menano-Pires

**CARRIED****10.3 NOTICE OF MOTION NO 18/2015 - DEVELOPMENT APPLICATION BOAT SHED KIOSK DEE WHY****140/15 RESOLVED*****Cr De Luca / Cr Daley*****MOTION**

That this Council requests the General Manager to ensure that any development application for the Boat Shed Kiosk Dee Why is referred to the Independent Warringah Development Assessment Panel for consideration in the interests of transparency in view of Council's pecuniary interest and in order to ensure the community is properly heard on any application.

**VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan, Harrison, Heins, Menano-Pires and Moskal

**Against the resolution:** Nil

**CARRIED**

*Councillor Moskal left the chamber at 7:28pm*

**MATTER OF URGENCY – REFERRAL OF COUNCIL'S HANDLING OF DEE WHY BEACH KIOSK TO THE INDEPENDENT COMMISSION AGAINST CORRUPTION*****Cr De Luca / Cr Daley***

That this Council calls upon the Independent Commission Against Corruption to investigate Warringah Council's handling of all matters pertaining to the Dee Why Boat Shed and the numerous complaints about this Kiosk.

**VOTING**

**For the motion:** Crs Daley, De Luca, Giltinan

**Against the motion:** Crs Harrison, Heins and Menano-Pires

***There being an equal number of votes, the Deputy Mayor used his casting vote against the motion which was declared LOST***

NOTE: Councillor Moskal was not present for voting on this Item

*Councillor Moskal returned to the chamber at 7:28pm*

*Councillor Heins left the chamber at 7:28pm*

#### **PROCEDURAL MOTION - ITEMS MOVED BY EXCEPTION**

##### **141/15 RESOLVED**

###### ***Cr Menano-Pires / Cr Giltinan***

That the Order of Business be changed so Items 6.2, 7.1, 8.1, 8.2, 8.3, 8.4, 13.1, 13.2, 13.3 are dealt with by exception with the recommendations of the General Manager / Deputy General Managers being adopted.

#### **VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan, Harrison, Menano-Pires and Moskal

**Against the resolution:** Nil

#### **CARRIED**

NOTE: Councillor Heins was not present for voting on this Item

#### **ITEMS RESOLVED BY EXCEPTION:**

##### **6.2 MONTHLY FUNDS MANAGEMENT REPORT JUNE 2015**

##### **142/15 RESOLVED**

###### ***Cr Menano-Pires / Cr Giltinan***

That:

- A. The report indicating Council's Funds Management position as at 30 June 2015 is noted.
- B. The Certificate of the Responsible Accounting Officer be noted and the report adopted.

#### **RESOLVED BY EXCEPTION**

##### **7.1 ANNUAL COMMUNITY SATISFACTION SURVEY RESULTS 2015**

##### **143/15 RESOLVED**

###### ***Cr Menano-Pires / Cr Giltinan***

That Council consider the results of the 2015 Warringah Community Survey as part of Council's

ongoing strategic planning and quality improvement processes.

**RESOLVED BY EXCEPTION**

**8.1 ROTARY CLUB OF BROOKVALE'S REQUEST TO WAIVE THE FEES FOR THE 23RD PUB TO PUB CHARITY FUN RUN AND WALK, SUNDAY 23 AUGUST 2015**

144/15 **RESOLVED**

**Cr Menano-Pires / Cr Giltinan**

That Council:

- A. Waive the Parks Reserves and Foreshores booking fees of \$1688 for the Rotary Club of Brookvale's Pub to Pub Charity Fun Run and Walk event for 2015.
- B. Waive the Parks Reserves and Foreshores booking fee for the Rotary Club of Brookvale's Pub to Pub Charity Fun Run and Walk event for 2016, if it proceeds in the same format as 2015.

**RESOLVED BY EXCEPTION**

**8.2 PROPOSED ADDITIONAL FEES FOR WARRINGAH CREATIVE SPACE**

145/15 **RESOLVED**

**Cr Menano-Pires / Cr Giltinan**

That Council adopt the following additional fees for the Warringah Creative Space 2015/16:

Fee Description	Fees for 2014/15
Market fee - per day	\$30
Outdoor Studio - per week	\$50
Half Gallery - per week	\$150
Commercial Exhibition - per week	\$700

**RESOLVED BY EXCEPTION**

**8.3 JOESANDRA VOLUNTARY PLANNING AGREEMENT**

146/15 **RESOLVED**

**Cr Menano-Pires / Cr Giltinan**

That Council endorse the Draft Voluntary Planning Agreement and Explanatory Note between Joesandra Pty Ltd and Warringah Council, for execution.

**VOTING**

**For the resolution:** Crs Harrison, Menano-Pires and Moskal



**Against the resolution:** Crs Daley, De Luca and Giltinan

***There being an equal number of votes, the Deputy Mayor used his casting vote for the motion which was declared CARRIED***

**RESOLVED BY EXCEPTION**

NOTE: A number of Councillors requested that a vote be recorded for this Item

#### **8.4 REPORTING OF STRATEGIC REFERENCE GROUP MINUTES**

147/15 **RESOLVED**

***Cr Menano-Pires / Cr Giltinan***

That Council note the draft minutes from the following meetings:

- A. A Connected Environment Strategic Reference Group meeting held on 9 June 2015.
- B. Vibrant Connected Communities Strategic Reference Group meeting held 9 June 2015.
- C. ECOS Strategic Reference Group meeting held 17 June 2015.
- D. Open Space and Recreation Strategic Reference Group meeting held 17 June 2015.

**RESOLVED BY EXCEPTION**

*Councillor Heins returned to the chamber at 7:29pm*

*Councillor Heins left the chamber at 7:31pm*

*Councillor Harrison left the chamber at 7:33pm*

In accordance with clause 13.2 (ii) of Council's Code of Meeting Practice, the meeting was adjourned at 7:34pm. The meeting resumed at 7:43pm with all Councillors present.

NOTE: The General Manager reported the resolutions on confidential matters passed by exception:

#### **13.1 ALTERNATIVE PROCUREMENT PROCESS FOR THE PREPARATION OF A STRUCTURE PLAN FOR BROOKVALE**

148/15 **RESOLVED**

***Cr Menano-Pires / Cr Giltinan***

That:

- A. Council exercise its authority under Section 55 (3) of the Local Government Act and approve an alternative procurement process for the provision of consultancy services to prepare a structure plan for Brookvale as it believes significant cost savings could potentially be achieved by the direct procurement of a consultant that has previously been engaged to prepare a structure plan for Warringah Council.
- B. Authority be delegated to the General Manager to enter into negotiations with Hames

Sharley (NSW) Pty Ltd to prepare a structure plan for Brookvale up to the amount detailed in the attached report and, if successful, to execute all necessary documentation to give effect to this resolution.

**RESOLVED BY EXCEPTION****13.2 WRITING OFF OF RATES, ANNUAL CHARGES AND INTEREST****149/15 RESOLVED*****Cr Menano-Pires / Cr Giltinan***

That Council note the report relating to the write off of Rates, Annual Charges and Interest, pursuant to Council's Rates and Annual Charges Recovery and Hardship Policy.

**RESOLVED BY EXCEPTION****13.3 RFT 2014/070 - REFURBISHMENT OF MANLY WARRINGAH WOMEN'S RESOURCE CENTRE - ASBESTOS CONTAMINATION & REMEDIATION****150/15 RESOLVED*****Cr Menano-Pires / Cr Giltinan***

That Council:

- A. Approve the transfer \$57,000 to CR6008 - Bringa Women's Centre Renewal project from CR6478 - Operational Buildings Works Program, and \$25,000 from CR6065 - Community Buildings Works Program.
- B. Authorise the ability to spend the remaining budget of \$44,950 and the additional budget of \$82,000.00 with Momentum Built Pty Ltd.

**RESOLVED BY EXCEPTION****6.0 GENERAL MANAGER'S REPORTS****6.1 DRAFT GENERAL PURPOSE AND SPECIAL PURPOSE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2015****151/15 RESOLVED*****Cr Harrison / Cr Heins***

That:

- A. The Annual Financial Statements for the year ended 30 June 2015 be adopted by the Council.
- B. The Mayor, Councillor Menano-Pires, General Manager and Chief Financial Officer be authorised to sign the necessary Financial Statements.
- C. The Annual Financial Statements for the year ended 30 June 2015 be referred to the Council's Auditor for audit.
- D. Council hereby delegate to the General Manager authority, upon receipt of the Auditor's

report of the Council, to:

- a) Forward a copy to the Office of Local Government and Australian Bureau of Statistics.
- b) Arrange for the public notice of the Council Meeting for presentation to the public, in the required format be placed in the Manly Daily.
- c) Arrange for the Council's audited financial reports and a copy of the Auditor's Reports to be made available for public inspection on Council's web page and in printed format at the Council's Civic Centre and Libraries at Belrose, Dee Why, Forestville and Warringah Mall.
- d) List the audited financial reports and Auditor's Reports on the Agenda for the next available Council Meeting for presentation to the public, which allows for the 7 days public notice requirement.

E. Council rolls over \$3,062,623 in Capital Works Projects to 2015/16.

## VOTING

**For the resolution:** Crs Daley, De Luca, Giltinan, Harrison, Heins, Menano-Pires and Moskal

**Against the resolution:** Nil

**CARRIED**

## 10.0 NOTICES OF MOTION

NOTE: With the permission of the mover and seconder the addition of point A to the motion was accepted

### 10.1 NOTICE OF MOTION NO 16/2015 - LIMITING POKER MACHINES AT NORTH MANLY BOWLING CLUB DISTRICT PARK

***Cr Daley / Cr Giltinan***

#### MOTION

- A. That during the tender process arising from the District Park Plan of Management, tenderers who are entities holding poker machines licenses are aware of Council's concerns towards poker machines, reflecting wider community values towards the increase of problems gambling.
- B. That Council ensures that if any new Registered Club is established at the current North Manly Bowling Club site in District Park in accordance with the Plan of Management, that the number of poker machines at such a Club be restricted to 12.

#### AMENDMENT

***Cr Moskal / Cr Heins***

That during the tender process arising from the District Park Plan of Management, tenderers who are entities holding poker machines licenses are aware of Council's concerns towards poker machines, reflecting wider community values towards the increase of problems gambling.

**VOTING**

**For the amendment:** Crs Harrison, Heins, Menano-Pires and Moskal

**Against the amendment:** Crs Daley, De Luca and Giltinan

**CARRIED**

*The amendment was CARRIED and became the Substantive Motion*

**SUBSTANTIVE MOTION****152/15 RESOLVED****Cr Moskal / Cr Heins**

That during the tender process arising from the District Park Plan of Management, tenderers who are entities holding poker machines licenses are aware of Council's concerns towards poker machines, reflecting wider community values towards the increase of problem gambling.

**VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan Harrison, Heins, Menano-Pires and Moskal

**Against the resolution:** Nil

**CARRIED****10.2 NOTICE OF MOTION NO 17/2015 - SOCIAL MESSAGE ON GARBAGE TRUCKS****153/15 RESOLVED****Cr Harrison / Cr Heins**

That:

- A) Council takes an active role in supporting the prevention of domestic violence by:
  - a. Investigating the installation of skins on Warringah garbage trucks with an anti-domestic violence social message.
  - b. Contacting Ballarat, Sydney City, Shell Harbour and Leichhardt Councils to discuss their campaigns.
- B) Council staff report back to Council at its September meeting the cost of installing skins or another banner type of promotion that can be secured to a garbage truck.

**VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan, Harrison, Heins, Menano-Pires and Moskal

**Against the resolution:** Nil

**CARRIED**

## **11.0 QUESTIONS ON NOTICE**

### **11.1 QUESTION ON NOTICE NO 16/2015 - EXPENDITURE ON COUNCIL'S CAR FLEET**

In accordance with Council's Code of Meeting Practice Clause 24(5) the question was deemed in order.

### **11.2 QUESTION ON NOTICE NO 17/2015 - EXPENDITURE ON COUNCIL'S MARKETING AND MEDIA UNIT**

In accordance with Council's Code of Meeting Practice Clause 24(5) the question was deemed in order.

### **11.3 QUESTION ON NOTICE NO 18/2015 - NUMBER OF COUNCIL RANGERS**

In accordance with Council's Code of Meeting Practice Clause 24(5) the question was deemed in order.

## **12.0 RESPONSES TO QUESTIONS ON NOTICE**

### **12.1 RESPONSE TO QUESTION ON NOTICE NO 13/2015 - EXPENDITURE ON STAFF LEADERSHIP/DEVELOPMENT PROGRAMS**

A response to the question on notice was provided in the business papers.

### **12.2 RESPONSE TO QUESTION ON NOTICE NO 14/2015 - EXPENDITURE ON REMOVING RANGER'S BENEFITS**

A response to the question on notice was provided in the business papers.

### **12.3 RESPONSE TO QUESTION ON NOTICE NO 15/2015 - STAFF BONUSES**

A response to the question on notice was provided in the business papers.

*The meeting concluded at 8:51pm*

This is the final page of the minutes comprising 13 pages  
numbered 1 to 13 of the Ordinary Council Meeting  
held on Tuesday 4 August 2015 and confirmed on Tuesday 25 August 2015

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Mayor

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General Manager