

# **Pittwater Council Minutes**

## **Council Meeting**

held at Mona Vale Memorial Hall, Mona Vale  
on

***16 April 2012***

Commencing at 6.33pm



## ATTENDANCE

### Members

Rose, H (Mayor & Chairperson)  
White, I (Deputy Mayor)  
Giles, P  
Dunbar, B  
Grace, B  
Hegarty, J  
Hock, P  
James, D

### Officers

Ferguson, M (General Manager)  
Evans, S (Director, Environmental Planning & Community)  
Hunt, C (Director, Urban & Environmental Assets)  
Lawrence, W (Manager, Administration & Governance)  
Jones, M (Chief Financial Officer)  
Godfrey, L (Manager, Community, Library & Economic Development)  
Lofts, J (Manager, Environmental Compliance)  
Eriksson, M (Acting Manager, Reserves Recreation & Building Services)  
Edmonds, M (Principal Development Officer)  
Williams, A (Principal Development Officer)  
Pigott, A (Principal Officer, Strategic Planning)  
Olsen, A (Strategic Planner)  
Davies, P (Principal Engineer, Strategy Investigation & Design)  
Angles, G (Principal Officer, Administration)  
McPherson, S (Administration Officer/Minute Secretary)

# Council Meeting

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**Notes:**

1. The Council Meeting commenced at 6.33pm and adjourned at 6.54pm, recommenced at 7.55pm and adjourned at 7.56pm, recommenced at 8.03pm and concluded at 8.04pm.
2. The Planning an Integrated Built Environment Committee Meeting commenced at 6.55pm and concluded at 7.49pm.
3. The Governance Committee Meeting commenced at 7.50pm and concluded at 7.54pm.
4. The Committee of the Whole Meeting commenced at 7.57pm and concluded at 8.02pm

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## **Council Meeting**

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### **1.0 Public Forum - Nil**

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### **2.0 Resident Questions**

#### **Question 1 – Mr Gavin Butler**

It was noted in the press recently that the General Manager (under delegation) had bid \$2.3 million at the auction of the Pasadena restaurant site at Church Point.

Having regard to the provisions of Section 377 of the Local Government Act (which prohibits Council delegating its function for the purchase of land and requires the specific resolution of the elected Council for any such purchase), please advise and identify the Council resolution which authorised this action or otherwise explain how this occurred?

#### **Question 2 – Mr Gavin Butler**

Where was it provided in Council's budget that Council had available \$2.3 million for such a purchase and identify from where the funds would have been obtained, and if taken from any other project, please identify that project and indicate the Council resolution which authorised such variation from budget?

#### **Answer:**

The General Manager responded that the Resolution authorising this action was taken by Council at its meeting on 19 March 2012. Whilst the newspaper reported the General Manager as delegated, Council had authorised the General Manager to bid (which reflected the Council recommendation made at the meeting on 19 March). If the bid had been successful, the deposit was to be provided out of the 2011-12 current budget. The balance was to be funded from loans in the 2012/123 plan. The funds were not to come from any other project.

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### **3.0 Apologies**

#### **COUNCIL DECISION**

That an apology be received and accepted from Cr Townsend and leave of absence be granted from the Council Meeting held on 16 April 2012.

(Cr Hegarty / Cr James)

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### **4.0 Declarations of Pecuniary and Conflict of Interest including any Political Donations and Gifts**

Nil.

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### **5.0 Confirmation of Minutes**

#### **COUNCIL DECISION**

That the Minutes of the Council Meeting held on 2 April 2012, copies of which were circulated to all Councillors, be and are hereby confirmed as a true and accurate record of the proceedings of that meeting.

(Cr White / Cr Hock)

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### **6.0 Public Addresses**

**C11.3 – N0350/11 – 64 – 66 Avalon Parade, Avalon – Demolition of the existing dwellings, construction of a Housing for Seniors and People with a Disability** – With the leave of the Council Ms Sue Martin (Avalon Preservation Trust) and Dr Richard Boyle addressed the meeting speaking against this item. Mr Tom Luedecke addressed the meeting speaking in support of this item.

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### **7.0 Mayoral Minutes**

Nil.

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<b>8.0</b>	<b>Business by Exception (All items on the Agenda)</b>
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**COUNCIL DECISION**

That Items C10.1, C10.2, C10.3, C10.4, C11.1, C11.2 and C11.5 be dealt with by exception and the recommendations contained in the reports for these items be adopted.

(Cr Hegarty / Cr Giles)

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<b>9.0</b>	<b>Council Meeting Business</b>
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Nil.

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**Procedural Motion (COUNCIL DECISION)**

That the Council Meeting be adjourned and the Planning an Integrated Built Environment Committee Meeting now commence.

(Cr James / Cr Giles)

**Notes:**

1. The Council Meeting adjourned at 6.54pm and the Planning an Integrated Built Environment Committee Meeting commenced at 6.55pm.
2. Cr Hegarty assumed the Chair.

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<b>Planning an Integrated Built Environment Committee</b>
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<b>11.0</b>	<b>Planning an Integrated Built Environment Committee Business</b>
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<b>C11.3</b>	<b>N0350/11 - 64-66 Avalon Parade Avalon - Demolition of the existing dwellings, construction of a Housing for Seniors and People with a Disability</b>
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### COMMITTEE RECOMMENDATION

That the matter be deferred to allow discussions with the Applicant and the Objectors on privacy issues, parking issues, streetscape and massing issues, site coverage and hydrology issues including supporting calculations that determine no net impact on the 1% flooding probability taking into account climate change and increased rainfall, further; legal advice on access for inter allotment drainage easements.

(Cr Rose / Cr Grace)

#### Notes:

1. A division was duly taken resulting in the following voting:

**Aye (For)**

Cr Rose  
Cr White  
Cr Dunbar  
Cr Giles  
Cr Hegarty  
Cr Hock  
Cr James  
Cr Grace

**No (Against)**

Nil

2. The following Motion was moved by Cr Giles, seconded by Cr White and subsequently withdrawn by Cr Giles with the consent of the seconder:

*"That the recommendation in the Development Officer's Report be endorsed and application N0350/11 for demolition of the existing dwellings, construction of a Housing for Seniors and People with a Disability at 64 Avalon Parade, Avalon (Lot 59 DP 9151), 66 Avalon Parade, Avalon (Lot 60 DP 9151) be granted development consent subject to the conditions contained in the Draft Determination and the following amended condition B31:*

**Amended Condition B31**

*All fences along the boundaries (except for the front boundary fence) and within the site are to be constructed of **timber (lapped and capped)** and to allow for the passage of floodwaters through the fence.*

**Additional Condition**

*Fixed privacy screens to be fitted on the eastern boundary.*

**Additional Condition B38**

*Tree 29 is to be retained and not removed. The canopy of Tree 29 (excluding the trunk) should it overhang onto No. 64 Avalon Parade may be trimmed by a maximum 10%.*

**Additional Condition B39**

*The rear yards of units 1, 2, 3, 4, 5 and 6 are not to be paved and must be maintained in accordance with the approved landscape plan for the life of the development."*



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### **Procedural Motion (COUNCIL DECISION)**

That Cr Grace be granted an extension of time to complete his address to the meeting on this item.  
(Cr Rose / Cr Hegarty)

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### **Procedural Motion (COUNCIL DECISION)**

That Cr James be granted an extension of time to complete his address to the meeting on this item.  
(Cr Rose / Cr Grace)

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## **C11.4 Elanora Heights Masterplan**

### **COMMITTEE RECOMMENDATION**

1. That Council note the contents of the above report in relation to the master planning process and project timeline.
  2. That Council endorse the 'Draft Elanora Heights Masterplan' to go on public exhibition for a minimum 28 days.
- (Cr Hegarty / Cr Giles)
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## **C11.1 N0261/11 - 220 McCarrs Creek Road, Church Point - Substantial alterations and additions to the existing dwelling**

### **COUNCIL DECISION (By Exception)**

That the recommendation in the Development Officer's Report be endorsed and application N0261/11 for substantial alterations and additions to the existing dwelling at 220 McCarrs Creek Road Church Point (Lot 22 DP 20097) be granted development consent subject to the conditions contained in the Draft Determination.

(Cr Hegarty / Cr Giles)

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## **C11.2 N0365/11 - 1941 Pittwater Road Bayview - Alterations and additions to the existing dwelling, a new spa and landscaping works**

### **COUNCIL DECISION (By Exception)**

That the recommendation in the Development Officer's Report be endorsed and application N0365/11 for alterations and additions to the existing dwelling, a new spa and landscaping works at 1941 Pittwater Road, Bayview (Lot 4 DP 11186) be granted development consent subject to the conditions contained in the Draft Determination.

(Cr Hegarty / Cr Giles)

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## **C11.5 Proposed Electricity Tender**

### **COUNCIL DECISION (By Exception)**

1. That Pittwater Council, through Essential Utilities Corporation (EUC) Pty Limited, undertakes a tender process for the supply of electricity to Council's contestable large sites and street lighting.
2. That the tender process be a shortened process, as outlined in this report, in accordance with Section 171 of the Local Government (General) Regulation 2005.
3. That the results of the tender be presented to Council at its meeting of 7 May, 2012 for consideration.

(Cr Hegarty / Cr Giles)

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### **Procedural Motion (COUNCIL DECISION)**

That the Planning an Integrated Built Environment Committee Meeting be concluded and the Governance Committee Meeting now commence.

(Cr Rose / Cr Giles)

#### **Notes:**

1. The Planning an Integrated Built Environment Committee Meeting closed at 7.49pm and the Governance Committee Meeting commenced at 7.50pm.
2. Cr Rose resumed the Chair.

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## **Governance Committee**

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### **10.0 Governance Committee Business**

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## **C10.5 Audit and Risk Committee Charter and Internal Audit Charter - Endorsement**

### **COMMITTEE RECOMMENDATION**

That Council endorse the update of both the Audit and Risk Committee Charter and the Internal Audit Charter, subject to the amendment of the first dot point under the heading of *Chairperson* on page 2 of the Audit & Risk Committee Charter to read as follows:-

*"The members will elect the position of chair of the committee annually for the duration of their appointment on the Committee".*

(Cr Rose / Cr Hegarty)

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**C10.1 Investment Balances for the Month of March 2012****COUNCIL DECISION (By Exception)**

That the information provided in the report be noted, including the 2011/12 net investment return of \$ 1,335,619.

(Cr Hegarty / Cr Giles)

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**C10.2 Legal Expenditure as at 31 March 2012****COUNCIL DECISION (By Exception)**

That the information provided in the report be noted.

(Cr Hegarty / Cr Giles)

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**C10.3 Monthly Contractors & Staff Report - February 2012****COUNCIL DECISION (By Exception)**

1. That the information provided on the engagement of new contracts for the month of February 2012 as provided by the Business Unit Managers be noted.
2. That the terminations and appointments of staff during February 2012 be noted.

(Cr Hegarty / Cr Giles)

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**C10.4 2012-2016 Draft Delivery Program & Budget****COUNCIL DECISION (By Exception)**

1. That Pittwater Council's 2012-2016 Draft Delivery Program, as tabled, be placed on public exhibition for a period of 28 days for community feedback.
2. That a public meeting be held on 8 May 2012 in relation to the Draft Delivery Plan & Budget.
3. That following the public exhibition period a further report be brought to Council outlining any submissions received.

(Cr Hegarty / Cr Giles)

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### **Procedural Motion (COUNCIL DECISION)**

That the Governance Committee Meeting be concluded and the Council Meeting now recommence.

(Cr Giles / Cr Hegarty)

#### **Notes:**

1. The Governance Committee Meeting closed at 7.54pm and the Council Meeting recommenced at 7.55pm
  2. Cr Rose remained in the Chair.
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## **Council Meeting**

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### **12.0 Adoption of Governance Committee Recommendation**

#### **COUNCIL DECISION**

That the recommendation on Item C10.5 of the Governance Committee comprising all Council members be and is hereby adopted.

(Cr Dunbar / Cr Giles)

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### **13.0 Adoption of Planning an Integrated Built Environment Committee Recommendations**

#### **COUNCIL DECISION**

That the recommendations on Items C11.3 and C11.4 of the Planning an Integrated Built Environment Committee comprising all Council members be and are hereby adopted.

(Cr Hegarty / Cr Hock)

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### **Procedural Motion (COUNCIL DECISION)**

That Council resolve into Committee of the Whole and that in the public interest and in accordance with Section 10A(2) (d) of the Local Government Act, 1993, the public and press be excluded from the meeting to consider Item C14.1 – Kimbriki Resource Recovery Project. Section 10A(2)(d) permits the Council to close the meeting to consider:

- (d) *Commercial information of a confidential nature that would, if disclosed:-*
- *prejudice the commercial position of the person who supplied it; or*
  - *confer a commercial advantage on a competitor of the Council; or*
  - *reveal a trade secret.*

(Cr Hegarty / Cr Hock)

**Notes:**

1. The General Manager advised the meeting that he had received no written submissions from the public seeking to address the Council on whether the meeting should be closed to consider Item C14.1. The Chairperson invited those in attendance to make verbal representations on whether the meeting should be closed to consider Item C14.1 – Kimbriki Resource Recovery Project. There were no requests to make a verbal representation.
2. At 7.57pm the Council resolved into Committee of the Whole, with the press and public excluded, to consider the report on Item C14.1 – Kimbriki Resource Recovery Project.

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## **Committee of the Whole**

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### **14.0 Committee of the Whole Business**

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#### **C14.1 Kimbriki Resource Recovery Project**

#### **COMMITTEE RECOMMENDATION**

1. That Council endorses the Kimbriki Resource Recovery Project (Project), including the establishment of a resource recovery facility (RRF) and materials recovery facility (MRF).
2. That, subject to compliance with the requirements of the *Local Government Act 1993* in relation to public-private partnerships, Council:
  - a) enters into the public-private partnership for the Project, and carries out the Project, with Kimbriki Environmental Enterprises Pty Ltd (KEE) and the selected Project Contractor/s; and
  - b) without limiting a), authorises the actions required to enter into the public-private partnership and carry out the Project, including:
    - the submission of information to the Division of Local Government and/or the Project Review Committee in accordance with the Division's *Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships*;
    - the carrying out by KEE of a tender process to select the Project Contractor/s;
    - the selection of the Project Contractor/s by KEE following the tender process;

- the negotiation, finalisation and execution of contractual documents;
- to the extent necessary to implement the Project, the making of an application to the Minister for Local Government for consent under section 358(1)(a) of the *Local Government Act 1993*;
- the disclosure of information to advise the community about the progress of the Project;
- by way of consent of Council as a shareholder in KEE, the approval of the agreements to be entered into by the KEE in connection with the Project as a significant investment for the purposes of clause 7.4(d) of the Shareholder Agreement.

3. That pursuant to section 377(1) of the *Local Government Act 1993*, Council delegates to the General Manager the authority:

- a) to exercise all powers of the Council to give effect to the above; and
- b) to execute any documents to give effect to the above,

including, without limiting a) and b), the authority to:

- submit all requisite documents to the DLG;
- make any necessary applications, including to the Minister for Local Government;
- negotiate, finalise and execute all relevant documents including the Variation to the Waste Service Agreement, the Side Deeds and the Sublease Side Deeds;
- disclose information to advise the community about the progress of the Project; and
- exercise all powers of the Council as a registered holder of shares and as a party to the Shareholder Agreement.

(Cr Grace / Cr Hock)

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### **Procedural Motion (COUNCIL DECISION)**

That the Committee of the Whole Meeting be concluded and the Council Meeting recommence.

(Cr Grace / Cr Giles)

### **Notes:**

1. The Council Meeting recommenced at 8.03pm.
2. Cr Rose remained in the Chair.

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## Council Meeting

### **Note:**

Upon resumption into the Open Council Meeting the Manager, Administration & Governance, read to the meeting the Recommendations formulated in Committee of the Whole.

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## 15.0 Adoption of the Committee of the Whole Recommendation

### **COUNCIL DECISION**

That the recommendation of the Committee of the Whole on Item C14.1 comprising all Council members be, and is hereby, adopted.

(Cr Grace / Cr Hock)

**THERE BEING NO FURTHER BUSINESS  
THE MEETING CONCLUDED AT 8.04PM ON  
MONDAY 16 APRIL 2012**