



PITTWATER COUNCIL

# **Pittwater Council Minutes**

## **Council Meeting**

held at Mona Vale Memorial Hall, Mona Vale  
on

***21 March 2011***

Commencing at 6.30pm.

## **ATTENDANCE**

### **Members**

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

### **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)  
Reid, P (Team Leader, Corporate Strategy & Commercial)  
Davis, Glenn (Principal Officer, Commercial Property)  
Beharrell, M (Manager, Natural Environment & Education)  
Munn, L (Manager, Reserves, Recreation & Building Services)  
Payne, J (Manager, Urban Infrastructure)  
Dyce, L (Manager, Planning & Assessment)  
Pigott, A (Principal Officer, Strategic Planning)  
Cordoba, L (Principal Officer, Land Release)  
Wilkinson, K (Strategic Planner - Land Release)  
Tite, M (Senior Strategic Planner)  
Chapman, K (Senior Strategic Planner)  
Robins, R (Principal Officer, Administration)  
Tasker, P (Administration Officer / Minute Secretary)

# Council Meeting

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**Notes:**

1. The Council Meeting commenced at 6.30pm and adjourned at 6.53pm, recommenced at 8.38pm and adjourned at 8.42pm, recommenced at 9.24pm and concluded at 9.26pm.
2. The Governance Committee Meeting commenced at 6.54pm and adjourned at 7.48pm, recommenced at 8.18pm and concluded at 8.37pm.
3. The Planning an Integrated Built Environment Committee Meeting commenced at 7.49pm and concluded at 8.17pm.
4. The Committee of the Whole Meeting moved into Closed Session at 8.43pm and back into Open Session at 9.23pm.

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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 Hette Mollema**

What powers does Council have to enforce appropriate dust mitigation measures on the Meriton development worksite along McPherson Street and Boondah Road, Warriewood?

**Answer**

The Director, Environmental Planning & Community, advised that Council has issued orders in relation to dust being generated on this site. In this regard Meritons are required to suppress any dust that emanates from the site by way of spraying.

**Question 2 - Mr Hette Mollema**

What has staff done, or can do, to ensure that the developer (Meriton) will rectify the water flow to the wetlands and how will staff monitor the site works? Is the developer contravening any Act which protects water quality, wetlands, riparian zones or their Conditions of Approval? Can we compel the developer to provide an independent hydrology report with measures to re-establish the water flow to the wetlands?

### **Answer**

The Director, Environmental Planning & Community, advised that over the past few weeks Council staff have been endeavouring to clarify a number of issues associated with the Meriton site next to the wetlands. There has been various correspondence with both Mr Mollema and Ms Czinner in relation to the concerns of the community related to the drying out of the ponds. To that end, I have been advised that the works undertaken by Meriton to this point in time have not had any effect on the wetland ponds. Council staff have issued preventative orders associated to both dust and works on the site, so Meriton are not permitted to undertake any works other than site preparation, which they have a right to do and have conducted partly.

That is for a number of reasons. The Consent that was issued by PAC required amended plans and those plans have not yet been approved by the Department of Planning. The Department of Planning have likewise issued orders to restrain the developer from undertaking any further work other than site preparation at this time due to lack of approved plans.

I am unaware of the developers contravening any Act in relation to the wetlands at this time. I have invited both Mr Mollema and Ms Czinner to meet with the Council staff both technical and professional not only in relation to the ponds but also in relation to the ongoing management of the site and of the wetlands.

### **Question 3 - Ms Lynne Czinner**

How is it that the Council has the unappealable right to refuse to rezone land, yet the DoP is conducting a strategic review into the potential land uses within the (STP) Buffer Zone, obviously with the idea that Council will rezone as the DoP sees fit? Could Council be forced to accept the DoP's version of the appropriate uses of the land and rezone that land, even if it was contrary to what Council believes is the best use for that land?

### **Answer**

The Director, Environmental Planning & Community, responded that this alludes to there being two rules, one for the rezoning process whereby Council decisions are unappealable, compared to the Part 3A process whereby the Council and community views can be overturned. It is part of the legislation. Part 3A as it is currently structured allows developers and proponents to do things that would perhaps otherwise not be permitted by Council and Council's say in those instances would be final, whereas under Part 3A they go through a different procedure.

In terms of whether the strategic review envisaged by PAC be overturned in the future - probably **yes** if Part 3A exists into the future, whereby notwithstanding orderly planning assessments and procedures, at the end of the day a decision can be made quite contrary to that orderly planning process.

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### **3.0 Apologies**

#### **COUNCIL DECISION**

That apologies be received and accepted from Cr James and leave of absence be granted from the Council Meeting held on 21 March 2011.

(Cr Hegarty / Cr Giles)

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

Cr White declared a significant non-pecuniary interest in Item C15.1, Planning Assessment Commission Decision – Part 3A at 14-18 Boondah Road Warriewood, and took no part in discussion and voting on this item. The reason provided by Cr White was:

*"Parents live opposite 14-18 Boondah Road."*

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### **5.0 Confirmation of Minutes**

#### **COUNCIL DECISION**

That the Minutes of the Council Meeting held on 7 March 2011, 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 Hegarty / Cr White)

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### **6.0 Business by Exception (All items on the Agenda)**

#### **COUNCIL DECISION**

That Items C10.1, C10.3, C10.8, C10.9, C10.10, C10.11 and C10.12 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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## 7.0 Public Addresses

### **Proceedings in Brief**

**C10.5 - Special Rate Variation Update** - Mr Kyle Hill (President of the Newport Residents Association) and Mr John Swainston with the leave of the Council addressed the meeting speaking against this item.

**C11.3 - Minutes of the Pittwater Traffic Committee Meeting held on 15 February 2011** – Mr Glen Ilic with the leave of the Council addressed the meeting speaking against this item, specifically General Business Item 1 - Elanora Heights - 182 Elanora Bus Service.

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## 8.0 Mayoral Minutes

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

That the Confidential Mayoral Minute be dealt with by the Committee of the Whole in Closed Session.

(Cr Rose / Cr Giles)

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## 9.0 Council Meeting Business - Nil

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

That the Council Meeting be adjourned and the Governance Committee Meeting now commence.

(Cr Giles / Cr Hegarty)

### **Notes:**

1. The Council Meeting adjourned at 6.53pm and the Governance Committee Meeting commenced at 6.54pm.
2. Cr Townsend assumed the Chair.



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## Governance Committee

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### 10.0 Governance Committee Business

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#### C10.5 Special Rate Variation Update

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#### COMMITTEE RECOMMENDATION

1. That Council adopt the proposed special rate variation (SRV) beginning in 2011. The SRV will be 5% (2011/2012), 4% (2012/13) and 3% (2013/14) per annum, over and above CPI. When Council submits its Special Rate Variation application to IPART the figures used for CPI will be 2.8% for 2011/12, 3.0% for 2012/13 and 3.0% for 2013/14.
2. That Council adopt the 10-year, \$38 million SRV works program that will form part of the Special Rate Variation Application and that will be incorporated into the 2011-2015 Draft Delivery Program & Budget.
3. That the Special Rate Application be submitted to IPART for consideration and evaluation.

(Cr Giles / Cr Dunbar)

#### **Notes:**

1. The following unsuccessful amendment moved by Cr Grace lapsed for want of a seconder:

*"That the Agenda item be deferred for further consideration and to explore other options."*

2. ***Dissent***

Cr Grace requested that his name be recorded as having voted against the motion which was carried.

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

That Cr Hegarty be granted an extension of time to complete her address to the meeting on this item.

(Cr Rose / Cr Giles)

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

That Cr Grace be granted an extension of time to complete his address to the meeting on this item.

(Cr Hegarty / Cr Townsend)

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

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

(Cr Rose / Cr Giles)

### **Notes:**

1. The Governance Committee Meeting was adjourned at 7.48pm and the Planning an Integrated Built Environment Committee Meeting commenced at 7.49pm.
2. Cr Hegarty assumed the Chair.

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## **Planning an Integrated Built Environment Committee**

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### **11.0 Planning an Integrated Built Environment Committee Business**

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#### **C11.3 Minutes of the Pittwater Traffic Committee Meeting held on 15 February 2011**

### **COMMITTEE RECOMMENDATION**

1. That the Traffic Committee recommendations contained in the Minutes of the Meeting of 15 February 2011 be adopted.
2. That Council staff approach Sydney Buses to seek a resolution for continuation of the 182 Elanora Bus Service.

(Cr Grace / Cr Townsend)

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## **C11.1 Draft Pittwater Local Planning Strategy**

### **COMMITTEE RECOMMENDATION**

1. That the report in relation to the draft *Pittwater Local Planning Strategy* (see **tabled document**) be noted.
  2. That the Community Consultation Plan be adopted and the draft *Pittwater Local Planning Strategy* and overlay classification map be placed on public exhibition.
  3. That the outcomes of public exhibition be reported back to Council prior to formal adoption of the *Pittwater Local Planning Strategy*.
- (Cr Rose / Cr Hock)

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## **C11.2 Major Project Declaration on 2 Macpherson Street Warriewood and 23-27 Warriewood Road Warriewood**

### **COMMITTEE RECOMMENDATION**

1. That the report be noted.
  2. That Council seek a delegation to the Director-General of the Department of Planning to express its concern with the proposal in the absence of a Comprehensive Strategic Study of the area as recommended by the Planning Assessment Commission.
  3. That urgent advice be sought on interlocutory action on the decision made by the Director-General.
- (Cr Townsend / Cr Grace)

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

That the Planning an Integrated Built Environment Committee Meeting conclude and the Governance Committee Meeting now recommence.

(Cr Giles / Cr White)

### **Notes:**

1. The Planning an Integrated Built Environment Committee Meeting concluded at 8.17pm and the Governance Committee Meeting recommenced at 8.18pm.
2. Cr Townsend resumed the Chair.

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## **Governance Committee**

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### **10.0 Governance Committee Business**

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#### **C10.1 Financial Report for the Period ending 28 February 2011 of the 2010/2011 Financial Year**

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

That the Year to date financial results for the period ending 28 February 2011 be noted, including:

- Consolidated financial result being an increase on Council funds of \$2.996 million.
- Operating result before capital being a profit of \$1.521 million.
- Major Projects Program expenditure stands as \$3.131 million.
- Cash and investment position stands at \$27.013 million.

(Cr Hegarty / Cr Giles)

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#### **C10.2 Investment Balances for the Month of February 2011**

##### **COMMITTEE RECOMMENDATION**

That the information provided in the report be noted, including the year to date (February) net investment return of \$ 976,662.

(Cr Giles / Cr White)

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#### **C10.3 Legal Expenditure as at 28 February 2011**

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

That the information provided in the report and graphical representation be noted.

(Cr Hegarty / Cr Giles)

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| <b>C10.4</b> | <b>Monthly Contractors and Staff Report - January 2011</b> |
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**COMMITTEE RECOMMENDATION**

1. That the information provided on the engagement of new contracts for the month of January 2011 as provided by the Business Unit Managers be noted.
2. That the terminations and appointments of staff during January 2011 be noted.

(Cr Giles / Cr Hock)

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| <b>C10.6</b> | <b>2011-2015 Draft Delivery Program &amp; Budget</b> |
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**COMMITTEE RECOMMENDATION**

1. That Pittwater Council's 2011-2015 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 1 June 2011 at 6.30pm 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 Townsend / Cr Giles)

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| <b>C10.7</b> | <b>Pittwater Asset Management Policy - Adoption</b> |
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**COMMITTEE RECOMMENDATION**

That the Pittwater Asset Management Policy be adopted.

(Cr Townsend / Cr Giles)

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| <b>C10.8</b> | <b>Joint Regional Planning Panel - Councillor Meeting Fee</b> |
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**COUNCIL DECISION (By Exception)**

- 1) That Council adopt its previously adopted meeting fee of a flat day rate of \$600 for determination meetings of the JRPP, including any briefing or inspection held on that day.
- 2) That briefing meetings and inspections of the JRPP not held on the same day as a determination meeting attract a meeting fee of \$100 per hour (and prorated to the next quarterly hour.).

(Cr Hegarty / Cr Giles)

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| <b>C10.9</b> | <b>Gifts &amp; Benefits Policy</b> |
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**COUNCIL DECISION (By Exception)**

1. That the Gifts and Benefits Policy be adopted.
2. That the policy be disseminated to all Council officials for sign off on acceptance of their responsibilities.
3. That the Gifts and Benefits register be made available to the public via Council's Website.

(Cr Hegarty / Cr Giles)

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| <b>C10.10</b> | <b>Delegations over Christmas - New Year Recess 2010/2011</b> |
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**COUNCIL DECISION (By Exception)**

That Council note there were no policy making or regulatory functions undertaken by the Mayor or the delegated Committee of Council during the 2010/2011 recess period.

(Cr Hegarty / Cr Giles)

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| <b>C10.11</b> | <b>Minutes of the Manly, Warringah, Pittwater Local Emergency Management Committee (MWPLEMC) Meeting held on 9 December 2010</b> |
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**COUNCIL DECISION (By Exception)**

That the minutes of the meeting of the Manly Warringah Pittwater Local Emergency Management Committee of 9 December 2010 be noted.

(Cr Hegarty / Cr Giles)

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| <b>C10.12</b> | <b>Minutes of SHOROC Board Meeting held on 9 February 2011</b> |
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**COUNCIL DECISION (By Exception)**

That the Minutes of the SHOROC Board Meeting held on 9 February 2011 be noted and those matters requiring further consideration by Pittwater Council be the subject of separate reports to Council as required.

(Cr Hegarty / Cr Giles)

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**Procedural Motion (COUNCIL DECISION)**

That the Governance Committee Meeting conclude and the Council Meeting now recommence.

(Cr Giles / Cr Grace)

**Notes:**

1. The Governance Committee Meeting concluded at 8.37pm and the Council Meeting recommenced at 8.38pm.
2. Cr Rose resumed the Chair.

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| <b>Council Meeting</b> |
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| <b>11.0</b> | <b>Adoption of the Governance Committee Recommendations</b> |
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**COUNCIL DECISION**

That the recommendations on Items C10.2, C10.4, C10.5, C10.6 and C10.7 of the Governance Committee comprising all Council members be and are hereby adopted.

(Cr Hegarty / Cr Giles)

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| <b>13.0</b> | <b>Adoption of the Planning an Integrated Built Environment Committee Recommendations</b> |
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**COUNCIL DECISION**

That the recommendations on Items C11.1, C11.2 and C11.3 of the Planning an Integrated Built Environment Committee comprising all Council members be and are hereby adopted.

(Cr White / Cr Hock)

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| <b>14.0</b> | <b>Councillor Questions - Nil</b> |
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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)(c) and 10A(2)(g) of the Local Government Act, 1993, the public and press be excluded from the meeting to consider Items C15.1 and C15.2.

Section 10A(2)(c) permits the Committee to close the meeting to consider:

- (c) *Information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting business or proposes to conduct business.*

Section 10A(2)(g) permits the Committee to close the meeting to consider:

- (g) *Advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*

(Cr Hegarty / Cr Giles)



**Note:**

The General Manager advised the meeting that he had received no written submissions from the public seeking to address the Committee on whether the meeting should be closed to consider the Confidential Items C15.1 and C15.2. The Chairperson invited those in attendance to make verbal representations on whether the meeting should be closed to consider Item C15.1 and Item C15.2. There were no requests to make a verbal representation.

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## **Committee of the Whole**

### ***Report of Closed Session - 21 March 2011***

At 8.38pm the Council resolved into Committee of the Whole, with the press and public excluded to consider the report on items C15.1 and C15.2. Upon resumption into Open Council the General Manager reported that the following recommendations had been formulated by the Committee of the Whole in Closed Session.

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## **15.0 Confidential Items**

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### **C15.2 Pittwater State Park - Establishment Of A State Park And Proposed Acquisition Of Currawong**

#### **COMMITTEE OF THE WHOLE RECOMMENDATION**

That Council:

- (a) Confirms its position ("Council Position") with respect to the establishment of Pittwater State Park, the acquisition of Currawong and the asset transfers and inclusions to facilitate the acquisition of Currawong;
- (b) Agrees to the inclusion of McKay Reserve to be incorporated into Pittwater State Park, and
- (c) Authorises the General Manager to continue to negotiate the establishment of Pittwater State Park, together with the execution of all relevant documentation, in respect of:
  - Great Mackerel Beach Reserve
  - Pittwater Park
  - Governor Phillip Park
  - McKay Reserve
  - The transfer of 69A Beaconsfield Street Newport to the Crown

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| <b>C15.1</b> | <b>Planning Assessment Commission Decision - Part 3A at 14-18 Boondah Road Warriewood</b> |
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**COMMITTEE OF THE WHOLE RECOMMENDATION**

1. That the legal advice be noted.
2. That the Council instructs its lawyers to challenge the approvals given by the PAC on 18 January 2011.  
(Cr Townsend / Cr Grace)

**Notes:**

1. Cr White retired from the Meeting at 9.02pm, having declared a significant non-pecuniary interest in Item C15.1, Planning Assessment Commission Decision – Part 3A at 14-18 Boondah Road Warriewood, and took no part in discussion and voting on this item. The reason provided by Cr White was:  
*"Parents live opposite 14-18 Boondah Road."*
2. The following unsuccessful amendment was moved by Cr Giles and seconded by Cr Rose:  
*"That the legal advice be noted."*
3. ***Dissent***  
Cr Giles requested that her name be recorded as having voted against the motion which was carried.

**Procedural Motion (COUNCIL DECISION)**

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

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**Procedural Motion (COUNCIL DECISION)**

That the Committee of the Whole Meeting conclude and the Council Meeting now recommence.  
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(Cr Giles / Cr Hegarty)

**Note:**

The Committee of the Whole Meeting concluded at 9.23pm and the Council Meeting resumed at 9.24pm.

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## Council Meeting

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### 16.0 Adoption of the Committee of the Whole Recommendations

#### COUNCIL DECISION

That the recommendation of the Committee of the Whole on Item C15.2 be adopted.

(Cr Rose / Cr Giles)

#### FURTHER COUNCIL DECISION

That the recommendation of the Committee of the Whole on Item C15.1 be adopted.

(Cr Townsend / Cr Grace)

#### Note:

#### **Dissent**

Cr Giles requested that her name be recorded as having voted against the motion (Item C15.1) which was carried.

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**THERE BEING NO FURTHER BUSINESS  
THE MEETING CONCLUDED AT 9.26PM  
ON MONDAY 21 MARCH 2011**