



PITTWATER COUNCIL

Minutes

Council Meeting

held at Mona Vale Memorial Hall, Mona Vale
on

18 October 2010

Commencing at 6.33pm

ATTENDANCE

Members

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

Officers

Ferguson, M (General Manager)
Evans, S (Director, Environmental Planning & Community)
Hunt, C (Director, Urban & Environmental Assets)
Lawrence, W (Manager, Administration & Governance)
Dyce, L (Manager, Planning & Assessment)
Jones, M (Chief Financial Officer)
Pigott, A (Principal Strategic Planning Officer)
Tite, M (Strategic Planning Officer)
Reid, P (Team Leader, Corporate Development & Commercial)
Robins, R (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 7.38pm, recommenced at 9.08pm and concluded at 9.14pm.
2. The Governance Committee Meeting commenced at 8.47pm and concluded at 8.52pm.
3. The Planning an Integrated Built Environment Committee Meeting commenced at 7.39pm and adjourned at 8.40pm, recommenced at 8.45pm and adjourned at 8.46pm, recommenced at 8.53pm and concluded at 9.07pm.

Council Meeting

1.0 Public Forum

Ms Margaret Hogge addressed the Council regarding reopening discussions on implementing Regulations for a better Pittwater with clean air outdoors free from the poisons in tobacco smoke.

2.0 Resident Questions

Question 1 - Mr Nick Rogers

Why did the Council NOT advise the parties who submitted EOI's specify the key criteria that it was to be judged on?

Answer:

The criteria were set within the specification document that was advertised. These included car parking, integration, financial return to Council and including whether commercial office space could be provided and the net community benefit including sustainability and amenity.

Question 2 - Mr Gavin Butler

If the proposed rezoning of Lots 17-19 and 25-27 on Foamcrest Avenue Newport goes ahead, should that mean the Council contract should be instantly terminated and renegotiated?

Answer:

The land was assessed on its highest and best use according to Council instructions, the valuation disregarded the current zoning and assessed the property on the basis of general business zoning.

Question 3 - Ms Susan Young

1. There is no financial report for the previous month of September 2010 nor Year to Date for the 1st quarter ended 30 September 2010? and
2. Under Item C10.1 Governance Committee Business - Investment Balances for the month of September 2010 there is NO listing or available on the website agenda of the total investments and what they are worth and are earning plus ancillary graphs?

Answer:

Regulations require Council to prepare a report within 2 months after the period ends, the report will go to the November Governance Committee. The Report for September was circulated

separately due to a clerical error, this is the only time the annexure to this report has not been provided in recent years.

Question 4 - Mr Peter Middleton

1. Will Council defer this item of rezoning to enable the Council Officers to obtain a further valuation of the rezoned property? and
2. Will the General Manager undertake that any contract with Woolworths be adjusted in price accordingly?

Answer:

The General Manager can not pre-empt the Council decision for this meeting and be taken on notice. The site was valued on its highest and best use, that being a general business zoning. Woolworths are to pay Council \$4.55 Million and in addition provide a strata title lot of a minimum of 56 car spaces free of charge. The Council is also entitled to acquire additional spaces at a purchase price of \$20,000 per space.

Question 5 - Ms Marjorie Lake

1. If the Council rezone the car parks what compensation will be given to adjacent unit owners? and
2. How will the unit owners now face loss of natural sunlight and fresh air with cooling northerly breezes?

Answer:

Unfortunately none, Council can not guarantee the zoning of land will remain the same zone for an individual lifetime.

Question 6 - Mr Ross Smith

Why was inaccurate advice given to Councillors in relation to DA306/09 approved at the elected Council Meeting last month 20 September, when Councillor Giles asked the question of Staff "Can the consent conditions for fencing to Sawmill Lane to protect school children safety be reinstated?"

Answer:

Taken on notice, but I refute that any advice given by staff was inaccurate.

Question 7 - Mr Ross Smith

In relation to DA306/09 why where Councillors advised that the fence to Sawmill Lane could be constructed as part of consent as depicted on plans 4,5,6,7 and 8 when in fact these plans do not show any fencing details what so ever and relate to floor plans, elevations and cross sections of the building and the 2 other plans she advised 3 and 15 to be included have no 2m x 2m 45 degree splay for adequate sightlines for drivers to school children in the lane when in fact the landscape plan is the one which should have been nominated as it did show the required splay at the vehicle exit and would have provided the safety for school children yet it was the only one purposely or otherwise left out of the list. Why is this so?

Answer:

Taken on notice.

Question 8 - Suzie Gold

What was the point of going to the Administrative Appeals Tribunal if its recommendations can be ignored?

Answer:

Taken on notice, however my understanding was that the release of this information was done with your consent.

3.0	Apologies
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COUNCIL DECISION

That an apology be received and accepted from Cr Townsend and leave of absence be granted from the Council Meeting held on 18 October 2010.

(Cr Hegarty / Cr James)

4.0	Declarations of Pecuniary and Conflict of Interest including any Political Donations and Gifts
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1. Cr Hegarty declared a significant non-pecuniary interest in Item C11.1 R0001/09 – 17 & 25-27 Foamcrest Avenue Newport – Cover report to Consultant's Assessment, and took no part in any debate or voting on the item. The reason provided by Cr Hegarty was:

"I am an authorized delegate to the JRPP and if it is the will of this Council to further progress this application, it is the opinion of senior staff that a further application will be presented to the JRPP."

2. Cr White declared a significant non-pecuniary interest in Item C11.2 Council's Submission on Part 3A Preferred Project Application for 14 -18 Boondah Road, Warriewood and took no part any debate or voting on this item. The reason provided by Cr White was:

"Parents live opposite proposed development."

5.0	Confirmation of Minutes
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COUNCIL DECISION

That the Minutes of the Council Meeting held on 5 October 2010 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)

6.0	Business by Exception (All items on the Minutes)
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COUNCIL DECISION

That Items C10.2, C10.4, C10.5, C10.6, C10.7 and C11.3 be dealt with by exception and the recommendations contained in the reports for these items be adopted.

(Cr Hegarty / Cr Giles)

7.0	Public Addresses
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Proceedings in Brief

C10.1 Investment Balances for the Month of September 2010 - Mr Gavin Butler and Mr Robert Dunn with the leave of the Council addressed the meeting on this item

C10.3 Monthly Contractors and Staff Report - August 2010 - Mr Robert Dunn with the leave of the Council addressed the meeting on this item

C10.8 Tabling of Pecuniary Interest Returns - Mr Robert Dunn with the leave of the Council addressed the meeting on this item

C11.1 R0001/09 - 17 & 25-27 Foamcrest Avenue Newport - Cover Report to Consultant's Assessment – Mr Kyle Hill, Mr David Catchlove, Mr Richard Armitage, Mr Gordon Dodd with the leave of the Council addressed the meeting on this item.

Note:

The following unsuccessful motion moved by Cr Grace lapsed for want of a seconder:

"That all identified stakeholders who where notified in relation to Item C11.1 be able to address Council".

8.0	Mayoral Minutes - Nil
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9.0	Council Meeting Business
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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 7.38pm and the Planning an Integrated Built Environment Committee Meeting commenced at 7.39pm.
2. Cr Rose remained in the Chair

Planning an Integrated Built Environment Committee

11.0	Planning an Integrated Built Environment Committee Business
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C11.1	R0001/09 - 17 & 25-27 Foamcrest Avenue Newport - Cover Report to Consultant s Assessment
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COMMITTEE RECOMMENDATION

1. That Council not proceed with the Planning Proposal lodged on behalf of Woolworths as the Proposal is inconsistent with the provisions of the Newport Village Commercial Centre Masterplan.
2. That Council reinforce that the Newport Village Commercial Centre Masterplan is the guiding document for future zoning and redevelopment of the subject land and 23 Foamcrest Avenue.
3. The Council refer the alternative Planning Proposal, as set out in Attachment 3, to facilitate the rezoning of Council owned land at 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"), to the Director General of Planning for a gateway determination.
4. That further community consultation be carried out in accordance with any gateway determination and that the outcome of the community consultation be reported to Council.
5. That Council note that endorsement of proceeding with the alternative Planning Proposal in no way fetters the statutory and regulatory responsibilities of the Council under the *Environmental Planning & Assessment Act 1979* or Council's obligation to objectively consider the suitability of any future development application on this site, including but not limited to that for the purpose of a supermarket.
6. That all persons who have made a submission be formally advised of Council's decision.

(Cr Giles / Cr James)

Division

A division was duly taken resulting in the following voting:

Aye (For)	No (Against)
Cr Rose	Cr Grace
Cr Dunbar	
Cr Giles	
Cr Hock	
Cr James	
Cr White	

Notes:

1. Cr Hegarty declared a significant non-pecuniary interest in Item C11.1 R0001/09 – 17 & 25-27 Foamcrest Avenue Newport – Cover report to Consultant's Assessment, and took no part in any debate or voting on the item. The reason provided by Cr Hegarty was:

"I am an authorized delegate to the JRPP and if it is the will of this Council to further progress this application, it is the opinion of senior staff that a further application will be presented to the JRPP."

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

- “1. That Council not proceed with the Planning Proposal lodged on behalf of Woolworths as the Proposal is inconsistent with the provisions of the Newport Village Commercial Centre Master plan*
- 2. That Council defers consideration of the alternative planning proposal in attachment 3 for further consideration including number 3 below*
- 3. In view of the significant public interest the Newport Village Commercial Centre Master Plan be revisited to enable further public comment”.*

Procedural Motion (COUNCIL DECISION)

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

(Cr Rose / Cr Grace)

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

(Cr Rose / Cr Giles)

Procedural Motion (COUNCIL DECISION)

That the Planning an Integrated Built Environment Committee Meeting be adjourned for five minutes to allow for the public to vacate the hall.

(Cr Rose / Cr Giles)

Note:

The Planning an Integrated Built Environment Committee Meeting adjourned at 8.40pm and recommenced at 8.45pm.

Procedural Motion (COUNCIL DECISION)

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

(Cr White /Cr Hock)

Notes:

1. The Planning an Integrated Built Environment Committee Meeting adjourned at 8.46pm and the Governance Meeting commenced at 8.47pm.
2. Cr Hegarty assumed the chair.

Governance Committee

10.0	Governance Committee Business
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C10.1	Investment Balances for the Month of September 2010
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COMMITTEE RECOMMENDATION

That the information provided in the report be noted, including the year to date (September) net investment return of \$ 398,193

(Cr Giles / Cr Hegarty)

C10.2	Legal Expenditure for the Month of September 2010
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COUNCIL DECISION (By Exception)

That the information provided in the report be noted.

(Cr Hegarty /Cr Giles)

C10.3	Monthly Contractors and Staff Report - August 2010
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COMMITTEE RECOMMENDATION

1. That the information provided on the engagement of new contracts for the month of August 2010 as provided by the Business Unit Managers at Attachment 1 be noted.
2. That the terminations and appointments of staff during August 2010 be noted.

(Cr Giles / Cr Dunbar)

C10.4	Banking and Collection Services
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COUNCIL DECISION (By Exception)

1. That no tender for the provision of Banking, Collection and Agency Services be accepted.
2. That Council seeks further quotations from the market place for the provision of Banking, Collection and Agency Services.
3. That the General Manager be authorised to negotiate with the preferred supplier/s for all or either Banking, Collection and Agency Services.
4. That the General Manager be authorised to approve all contract payments associated with this contract and affix the Seal of Council to any relevant documents if required.

(Cr Hegarty / Cr Giles)

C10.5	Lease to Bayview Yacht Racing Association - 1842 Pittwater Road, Bayview
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COUNCIL DECISION (By Exception)

1. That Council adopt the attached 20 year lease to the Bayview Yacht Racing Association.
2. That the General Manager be authorised to execute the lease document under power of attorney.

(Cr Hegarty /Cr Giles)

C10.6	2009/2010 Annual Report
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COUNCIL DECISION (By Exception)

That the information provided in the Annual Report as tabled, be noted.

(Cr Hegarty / Cr Giles)

C10.7	Nomination of "Designated Persons" - Disclosures of Pecuniary Interest
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COUNCIL DECISION (By Exception)

That all employees of Pittwater Council holding the positions listed in Attachment 2 to this report, be nominated as 'Designated Persons' in accordance with section 441 of the Local Government Act, 1993:

(Cr Hegarty / Cr Giles)

C10.8	Tabling of Pecuniary Interest Returns
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COMMITTEE RECOMMENDATION

1. That it be noted that all Councillors and all employees nominated as "designated persons" by Council resolution of 21 September 2009, have lodged pecuniary interest returns in accordance with the requirements of the Local Government Act, 1993.
2. That the pecuniary interest returns for the twelve (12) month period ending 30 June 2010 be tabled at the Meeting.

(Cr White / Cr Hock)

Procedural Motion (COUNCIL DECISION)

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

(Cr White /Cr Giles)

Notes:

1. The Governance Committee Meeting concluded at 8.52pm and the Planning an Integrated Built Environment Committee Meeting recommenced at 8.53pm.
 2. Cr Rose resumed the chair.
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Planning an Integrated Built Environment Committee

11.0	Planning an Integrated Built Environment Committee Business
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C11.2	Councils Submission on Part 3A Preferred Project Application for 14-18 Boondah Road, Warriewood
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COMMITTEE RECOMMENDATION

That the submission (as tabled and amended on pages 145-146), as summarised in this report, outlining Council's areas of concern arising from its assessment of the Meriton Apartments Pty. Limited Preferred Project Report for 559 residential dwellings and associated development at 14-18 Boondah Road, Warriewood, be noted.

(Cr Giles / Cr Dunbar)

Note:

Cr White declared a significant non-pecuniary interest in Item C11.2 Council's Submission on Part 3A Preferred Project Application for 14 -18 Boondah Road, Warriewood and took no part any debate or voting on this item. The reason provided by Cr White was:

"Parents live opposite proposed development."

C11.3	Draft Environmental Planning & Assessment Regulation 2010
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COUNCIL DECISION (By Exception)

1. That Council note the contents of the above report and submission in relation to the Draft Environmental Planning & Assessment Regulation 2010.
2. That Council resolve to forward the attached submission to the Department of Planning.

(Cr Hegarty / Cr Giles)

C11.4	Update on the North Narrabeen Village Masterplan
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COMMITTEE RECOMMENDATION

1. That the information provided in the report be noted.
2. That a further status report on the North Narrabeen Village masterplan be provided to Council by 31 March 2011.

(Cr James / Cr Giles)

C11.5	Minutes of the Planning an Integrated Built Environment Reference Group Meeting held on 18 August 2010
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COMMITTEE RECOMMENDATION

1. That the Minutes of the Planning an Integrated Built Environment Reference Group meeting of 18 August 2010 be noted.
2. That the Reference Points relating to Items PIBE4.1, PIBE4.2, PIBE4.3 and PIBE5.0 within the Minutes be specifically noted.

(Cr Dunbar / Cr Rose)

Procedural Motion (COUNCIL DECISION)

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

(Cr Grace / Cr Hock)

Notes:

1. The Planning an Integrated Built Environment Committee Meeting concluded at 9.07pm and the Council Meeting recommenced at 9.08pm.
2. Cr Rose remained in the chair

Council Meeting

12.0	Adoption of the Governance Committee Recommendations
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COUNCIL DECISION

That the recommendations on Items C10.1, C10.3 and C10.8 of the Governance Committee comprising all Council members be, and are hereby, adopted.

(Cr Giles / Cr Hock)

13.0	Adoption of Planning an Integrated Built Environment Committee Recommendations
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COUNCIL DECISION

That the recommendations on Items C11.4 and C11.5 of the Planning an Integrated Built Environment Committee comprising all Council members be, and are hereby, adopted.

(Cr James / Cr Giles)

FURTHER COUNCIL DECISION

That the recommendation Items C11.1 of the Planning an Integrated Built Environment Committee comprising all Council members excepting for Cr Hegarty be, and are hereby, adopted.

(Cr James / Cr Giles)

Note:

Cr Hegarty declared a significant non-pecuniary interest in Item C11.1 ROOO1/09 – 17 & 25-27 Foamcrest Avenue Newport – Cover report to Consultant's Assessment, and took no part in any debate or voting on the item. The reason provided by Cr Hegarty was:

"I am an authorized delegate to the JRPP and if it is the will of this Council to further progress this application, it is the opinion of senior staff that a further application will be presented to the JRPP."

FURTHER COUNCIL DECISION

That the recommendation on Item C11.2 of the Planning an Integrated Built Environment Committee comprising all Council members excepting for Cr White be, and are hereby, adopted.

(Cr James / Cr Giles)

Note:

Cr White declared a significant non-pecuniary interest in Item C11.2 Council's Submission on Part 3A Preferred Project Application for 14 -18 Boondah Road, Warriewood and took no part in any debate or voting on this item. The reason provided by Cr White was:

"Parents live opposite proposed development."

14.0	Councillor Questions
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Questions – Cr Dunbar

Could Woolworths the property owner in Foamcrest Avenue, Newport legally fence off their property?

Answer:

Yes

**THERE BEING NO FURTHER BUSINESS
THE MEETING CONCLUDED AT 9.14PM ON MONDAY
MONDAY 18 OCTOBER 2010**