

# **Minutes of a Meeting of Warringah Council held on Tuesday, 14 February 2012 at the Civic Centre, Dee Why Commencing at 6.00pm**

## **ATTENDANCE**

### **Members**

Cr M Regan (Mayor), Cr J Sutton (Deputy Mayor) and Crs V De Luca OAM, J Falinski, R Giltinan, Dr C Harris, Dr C Kirsch, V Laugesen, M Ray and Dr H Wilkins.

### **Officers**

General Manager (R Hart), Deputy General Manager Corporate Services (J Warburton), Deputy General Manager Community and Environmental Services (M Ryan), A/ Deputy General Manager Strategic and Development Services (P Robinson), Corporate Lawyer (V Ingram), Chief Financial Officer (D Walsh), Group Manager Marketing and Communications, (G Middleton), Media and Content Manager (B Noble), Group Manager Natural Environment (T Dickinson), Group Manager Strategic Planning (D Kerr), Director Glen Street Theatre (M Woodward), Manager Natural Environment - Strategic Outcomes (A Turnbull), Strategic Planning Manager (M Haynes), Governance Manager (M Lee), Coordinator Governance (A Moore), Administration Officer (X Von Oven) and IM&T Support Officer (D Mishra).

## **NOTES**

The meeting commenced at 6.00pm, adjourned at 8.00pm, resumed at 8.08pm, moved into closed session at 9.16pm, resumed in open session at 10.03pm and concluded at 10.06pm.

## **ORDER OF BUSINESS**

The Business of the meeting was dealt with in the following order:

Items 1.0, 2.1, 2.2, 3.0, 4.0, Items by exception 8.1, 9.1, 9.2, 9.3, 9.4, 9.6, 10.1, 10.2, 10.3 and 15.3, followed by 11.2, 6.1, 6.2, 8.2, 9.5, 10.4, 10.5, 11.1, 12.1, 12.2, 15.0, 15.2, 15.1, and 16.0.

Items not dealt with:

Items 15.4 and 15.5.

THE MAYOR CONGRATULATED CR SUTTON ON THE EVENT OF HER 75<sup>TH</sup> BIRTHDAY.

## **1.0 APOLOGIES**

Nil.

## **2.0 CONFIRMATION OF MINUTES**

### **2.1 Minutes of Extraordinary Council Meeting held 28 October 2011**

1/12 **RESOLVED**

***Cr Sutton / Cr Harris***

That the Minutes of the Extraordinary Meeting of Council of 28 October 2011, copies of which were previously circulated to all Councillors be and are hereby confirmed as a true and correct record of the proceedings of that Meeting.

#### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

### **2.2 Minutes of Council Meeting held 13 December 2011**

2/12 **RESOLVED**

***Cr Giltinan / Cr Wilkins***

That the Minutes of the Meeting of Council of 13 December 2011, copies of which were previously circulated to all Councillors be and are hereby confirmed as a true and correct record of the proceedings of that Meeting subject to Item 3.0 Declaration of Pecuniary and Conflicts of Interest reading as follows:

"Cr De Luca declared a less than significant, non pecuniary interest in relation to Item 8.4, and read the following statement:

"I declare a less than significant conflict of interest in relation to Item 8.4 – Planning proposal 26 Campbell Avenue as I have conducted correspondence with both the applicant and objectors, attended a meeting at Council Chambers with the then Director of Planning and

the applicant. I have also come into contact with a staff member of the applicant, Mr Richard Lennarducci at two charitable events. I do not believe my impartiality has been compromised in that at all times I was performing my duties as a public official, I have referred objections and supporting submissions to Council Officers for consideration and I have not fettered my discretion in the matter and have and will consider all matters raised by objectors and the applicant.”

Cr Kirsch declared a less than significant, non pecuniary interest in relation to Item 8.4, as she has met with the applicant and discussed the matter with council officers. Cr Kirsch stated that as such she considered her interest in the item to be less than significant and non pecuniary.

Cr Falinski declared a less than significant, non pecuniary interest in relation to Item 8.4, as he had met with the applicant on one occasion in the presence of Council officers, Cr Regan and Cr Sutton.

Cr Wilkins declared a less than significant, non pecuniary interest in relation to Item 8.4, as she had met with the applicants to discuss the item.

Cr Laugesen declared a less than significant, non pecuniary interest in relation to Item 8.4, and read the following statement:

“I declare a less than significant, non pecuniary conflict of interest in Item 8.4 – Planning proposal 26 Campbell Avenue as I met with the applicant and his consultants on their invitation. My impartiality has not been compromised as the meeting took place in accordance with Code of Conduct at Council premises during business hours.

Cr Regan declared a less than significant, non pecuniary interest in relation to Item 8.4, as he had met with the applicant at Council premises with Council staff present and met and corresponded with one or two of the objectors. Cr Regan stated that he did not believe his judgement had been fettered in anyway.

Cr Regan declared a significant, non pecuniary interest in relation to Item 6.5, as he was the subject of the report and that he would not be voting on the item.”

## **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

## **3.0 DECLARATION OF PECUNIARY AND CONFLICTS OF INTEREST**

Cr De Luca declared a less than significant, non pecuniary interest in relation to Item 11.2, as he had received representations from the objectors and applicants and met with the applicants in the presence of Council officers, Mr Ryan and others. He stated that he had come into contact with one of the applicant’s officers at 2 charity events and that the matter required no further action as his impartiality had not been compromised in anyway.

Cr Kirsch declared a less than significant, non pecuniary interest in relation to Item 12.1, as she was a committee member of “Save the Styx Turns Blue”. She stated that there was no financial or other benefit to her or other committee members.

Cr Kirsch declared a less than significant, non pecuniary interest in relation to Item 11.2, as she had a brief discussion about the proposal with the applicant and his consultant in the Council Chamber. She stated that there was no benefit to her, nothing was provided by anyone and no concessions being made to the applicant or their consultant.

Cr Falinski declared a less than significant, non pecuniary interest in relation to Item 11.2, as he had met with the applicant and his consultants and had been in correspondence with those in favour and those against the rezoning.

Cr Falinski declared a less than significant, non pecuniary interest in relation to Item 12.1, as he had donated money to the "Save the Styx Turns Blue" event.

Cr Giltinan declared a less than significant, non pecuniary interest in relation to Item 11.2, as he runs a tennis and squash centre in North Manly and had been in correspondence with those in favour and those against the rezoning.

Cr Wilkins declared a less than significant, non pecuniary interest in relation to Item 11.2, as she had lengthy conversations with the applicant discussing professional matters concerning the development of the site. She stated that she did not believe she was conflicted in anyway.

Cr Harris declared a less than significant, non pecuniary interest in relation to Item 11.2, as she had heard from both sides.

Cr Harris declared a less than significant, non pecuniary interest in relation to Item 9.2, as she lives in the Oxford Falls Valley for which the Development Control Plan will apply to but she stated that there would be no consequences for her.

Cr Harris declared a significant, non pecuniary interest in relation to Item 12.1, as she is heavily involved in the organisation of the "Save the Styx Turns Blue" campaign.

Cr Laugesen declared a less than significant, non pecuniary interest in relation to Item 11.2, as she had met with the applicant and his consultants at Council premises during business hours and had fielded enquiries and opinions from the other side of the argument. She stated that she was not conflicted as there was no impact on her personal circumstances.

Cr Sutton declared a less than significant, non pecuniary interest in relation to Item 11.2, as she had met the applicant and had received countless emails from both sides.

Cr Regan declared a less than significant, non pecuniary interest in relation to Item 11.2, as he had met with and corresponded with both objectors and applicants in regards to this item. He stated that he felt there was nothing to prevent him from making a decision on the matter.

## **4.0 PUBLIC FORUM**

### **PROCEDURAL MOTION – PERMISSION TO ADDRESS COUNCIL AND EXTENSION OF PUBLIC FORUM PERIOD**

**3/12 RESOLVED**

***Cr Ray / Cr De Luca***

- A. That, in accordance with Clause 12.1 (iii)(d) of the Code of Meeting Practice, all those who requested to speak on Item 11.2, Rescission Motion – Planning Proposal 26 Campbell Avenue, Cromer, be permitted to address Council on the rescission motion on the basis of exceptional circumstances; and

- B. 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 to allow all requested speakers to address Council.

## **VOTING**

**For the resolution:** Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan and Sutton.

**Against the resolution:** Crs Falinski and Wilkins.

THE 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. Ms Rachel Cernecca** addressed Item 11.2 on the agenda.

**4.2. Mr Peter Christie**, representing Residents Committee of Dee Why Gardens, addressed Item 11.2 on the agenda.

**4.3. Mr Ross Fleming**, representing the applicant, addressed Item 11.2 on the agenda.

**4.4. Mr Eugene Marchese**, representing the applicant, addressed Item 11.2 on the agenda.

## **PROCEDURAL MOTION – EXTENSION OF TIME**

***Cr Ray / Cr De Luca***

That Mr Marchese be granted an extension of 3 minutes to address Council.

## **VOTING**

**For the motion:** Crs De Luca, Giltinan, Laugesen and Ray.

**Against the motion:** Crs Falinski, Harris, Kirsch, Regan, Sutton and Wilkins.

THE MOTION, UPON BEING PUT, WAS DECLARED LOST.

**4.5. Mr Ian Hayson**, representing the applicant, addressed Item 11.2 on the agenda.

## **PROCEDURAL MOTION – EXTENSION OF TIME**

***Cr Ray / Cr Giltinan***

That Mr Hayson be granted an extension of 3 minutes to address Council.

## **VOTING**

**For the motion:** Crs De Luca, Giltinan, Laugesen and Ray.

**Against the motion:** Crs Falinski, Harris, Kirsch, Regan, Sutton and Wilkins.

THE MOTION, UPON BEING PUT, WAS DECLARED LOST.

- 4.6. Ms Joanne Tauro** made a statement regarding the garden at 21 Drumcliff Avenue, Killarney Heights.

**Answer:** The Acting Deputy General Manager Strategic Development Services advised that Council had sent a warning letter to the resident of the premises and staff will inspect the site in February. If, following the inspection there is further lack of action, Council will send a notice of intent.

- 4.7. Ms Kathryn Laurie**, representing residents of Bruzzano Place, addressed Item 11.2 on the agenda.

- 4.8. Mr Peter Eliassen** addressed Item 11.2 on the agenda.

- 4.9. Ms Ann Sharp** addressed Item 11.2 on the agenda.

- 4.10. Ms Linda Tattershall**, representing Evergreen Seniors Tennis Group, addressed Item 11.2 on the agenda.

- 4.11. Dr Nancy Hallier**, representing Pittwater House School, addressed Item 11.2 on the agenda.



CR LAUGESSEN LEFT THE CHAMBER AT 7.04PM.

### **PROCEDURAL MOTION – CHANGE THE ORDER OF BUSINESS**

4/12 **RESOLVED**

***Cr Falinski / Cr Wilkins***

That the Order of Business be changed so that certain items can be dealt with by exception, with the recommendations being adopted.

### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

CR LAUGESSEN WAS ABSENT FROM THE CHAMBER DURING VOTING ON THIS ITEM.

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

5/12 **RESOLVED**

***Cr Falinski / Cr Wilkins***

That the recommendations of the Deputy General Manager in each of the following Items 8.1, 9.1, 9.2, 9.3, 9.4, 9.6, 10.1, 10.2, 10.3 and 15.3 be adopted.

### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

CR LAUGESSEN WAS ABSENT FROM THE CHAMBER VOTING ON THIS ITEM.

## **8.1 Fox Park, Florence Avenue, Collaroy - Proposed Drainage Easement in Favour of 29 Beach Road, Collaroy**

(BP REF 24)

6/12 **RESOLVED**

A. That subject to Item C of this recommendation, Council authorise a 1 metre wide Easement to drain water and associated Positive Covenant, by underground pipe within Lot 2 DP

566490 Fox Park Collaroy in favour of 29 Beach Road, Collaroy for an amount assessed by an independent qualified valuer.

- B. That Council authorise the affixing of Council's seal to, and delegate authority to the General Manager to execute the necessary documentation in order to give effect to this resolution.
- C. That all costs associated with the granting of the proposed easement and associated Positive Covenant as referred to in item A of this recommendation, including but not limited to, Council's legal costs, GST if applicable, document registration and reinstatement of land post authorised drainage works, be funded by the applicant.

(THIS ITEM WAS DEALT WITH BY EXCEPTION.)

## **9.1 Delegated Authority over the Christmas / New Year Recess 2011/2012**

(BP REF 33)

7/12 **RESOLVED**

That the items dealt with by the Mayor during the 2011/2012 recess period, and subsequent decisions made by the Mayor under delegated authority, be noted.

(THIS ITEM WAS DEALT WITH BY EXCEPTION.)

## **9.2 Public Exhibition of Draft Warringah Development Control Plan 2000 (Notification)**

(BP REF 71)

8/12 **RESOLVED**

- A. That Council:
  - i) pursuant to section 74C of the *Environmental Planning and Assessment Act 1979*, prepare Draft Warringah Development Control Plan 2000 (Notification) as detailed in Attachment 1 to this report,
  - ii) pursuant to section 18 of the *Environmental Planning and Assessment Regulation 2000*, place the Draft Warringah Development Control Plan 2000 (Notification) on public exhibition for a period of 28 days and invite submissions from the public.
- B. That the matter be reported back to Council following completion of the public exhibition.

(THIS ITEM WAS DEALT WITH BY EXCEPTION.)



### **9.3 Report on Trial of North Balgowlah Shuttle Bus Service**

(BP REF 74)

9/12 **RESOLVED**

That Council:

- A. Thank Manly Council for its offer to continue to provide the North Balgowlah Hop Skip and Jump Bus service for another twelve months.
- B. Decline this offer on the basis that the service does not represent good value to the wider Warringah community due to low patronage rates.
- C. Give further consideration to the role that shuttle bus services might play throughout the Warringah LGA after the finalisation of the Warringah Sustainable Transport Strategy.
- D. Notify residents of North Balgowlah of the cessation of the service.

(THIS ITEM WAS DEALT WITH BY EXCEPTION.)

### **9.4 Draft Environmental Sustainability Strategy**

(BP REF 82)

10/12 **RESOLVED**

That the draft Environmental Sustainability Strategy be placed on public exhibition for a period of 30 days.

(THIS ITEM WAS DEALT WITH BY EXCEPTION.)

### **9.6 Submission on Destination 2036 Draft Action Plan**

(BP REF 89)

11/12 **RESOLVED**

That Council endorse the submission at the Attachment on the Destination 2036 Draft Action Plan.

(THIS ITEM WAS DEALT WITH BY EXCEPTION.)

## **10.1 Exhibition of Draft Warringah Biodiversity Conservation Study**

(BP REF 95)

12/12 **RESOLVED**

That Council exhibit the draft Warringah Biodiversity Conservation Study for a period of 4 weeks, and note that a further report will be brought to Council following the exhibition period.

(THIS ITEM WAS DEALT WITH BY EXCEPTION.)

## **10.2 Release of Drainage Easement - 24 Sloane Crescent, Allambie Heights**

(BP REF 103)

13/12 **RESOLVED**

- A. That the easement for drainage created by Transfer No. 641624 be released from 24 Sloane Crescent, Allambie Heights, being Lot B in Deposited Plan 404075.
- B. That Council delegate authority to the General Manager to sign and seal the necessary documentation in order to give effect to this resolution.

(THIS ITEM WAS DEALT WITH BY EXCEPTION.)

## **10.3 Starkey Reserve Off-Leash Dog Area**

(BP REF 106)

14/12 **RESOLVED**

- A. That an unleashed dog exercise area not be provided at Starkey Reserve.
- B. That the funding previously allocated to the Starkey Reserve proposal be utilised for installation of fencing and water supply at the Currie Road, Forestville off leash dog exercise area.

(THIS ITEM WAS DEALT WITH BY EXCEPTION.)

CR LAUGESSEN RETURNED TO THE CHAMBER AT 7.09PM.

**PROCEDURAL MOTION – CHANGE THE ORDER OF BUSINESS**

15/12 **RESOLVED**

***Cr De Luca / Cr Sutton***

That the Order of Business be changed so that Item 11.2 be brought forward and dealt with immediately.

**VOTING**

**For the resolution:** Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray, Sutton and Wilkins.

**Against the resolution:** Crs Falinski and Regan.

**11.2 Notice of Rescission Motion No 12/2011  
Planning Proposal - 26 Campbell Avenue, Cromer –  
Item 8.4, 13 December 2011**

(BP REF 126)

***Cr Sutton / Cr De Luca***

That the Council's resolution relating to Item 8.4, BP Ref 136, passed at the meeting of the Council held on 13 December 2011 which reads as follows:

"That Council refuse to support the planning proposal at 26 Campbell Avenue, Cromer and that the applicant and all those who made submissions be advised."

be and is hereby rescinded.

**PROCEDURAL MOTION – THAT THE MOTION BE PUT**

16/12 **RESOLVED**

***Cr Sutton***

That the motion be put.

**VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Laugesen, Regan, Sutton and Wilkins.

**Against the resolution:** Crs Harris, Kirsch and Ray.

## 17/12 RESOLVED

### ***Cr Sutton / Cr De Luca***

That the Council's resolution relating to Item 8.4, BP Ref 136, passed at the meeting of the Council held on 13 December 2011 which reads as follows:

"That Council refuse to support the planning proposal at 26 Campbell Avenue, Cromer and that the applicant and all those who made submissions be advised."

be and is hereby rescinded.

## VOTING

**For the resolution:** Crs De Luca, Falinski, Giltinan, Laugesen, Regan, Sutton and Wilkins.

**Against the resolution:** Crs Harris, Kirsch and Ray.

## CONSEQUENTIAL MOTION

### ***Cr Sutton / Cr De Luca***

- A. That Council support the Planning Proposal – 26 Campbell Avenue, Cromer.
- B. That Council refer the Planning Proposal, and any relevant supporting information, to the Department of Planning and Infrastructure for a Gateway Determination pursuant to Section 54 of the Environmental Planning and Assessment Act.
- C. That Council notify the applicant, Binburra Pty Ltd, of its decision.
- D. That Council notify all persons who made submissions of Council's decision.
- E. That should the Department of Planning and Infrastructure require additional information to enable the amending LEP to proceed, this be provided by Council staff, as required.
- F. That development controls relating to the development of the land be incorporated in an amendment to the draft Warringah Development Control Plan 2009.
- G. That Council staff work with the proponent to develop a Voluntary Planning Agreement, which currently includes the dedication of land as proposed in writing by the applicant, to facilitate the Planning Proposal for the site.

## AMENDMENT

### ***Cr Wilkins / Cr Regan***

- A. That Council support the Planning Proposal – 26 Campbell Avenue, Cromer.
- B. That Council refer the Planning Proposal, and any relevant supporting information, to the Department of Planning and Infrastructure for a Gateway Determination pursuant to Section 54 of the Environmental Planning and Assessment Act.
- C. That Council notify the applicant, Binburra Pty Ltd, of its decision.
- D. That Council notify all persons who made submissions of Council's decision.

- E. That should the Department of Planning and Infrastructure require additional information to enable the amending LEP to proceed, this be provided by Council staff, as required.
- F. That development controls relating to the development of the land be incorporated in an amendment to the draft Warringah Development Control Plan 2009.
- G. That the proponent consider amending their Planning Proposal for the site that includes;
  - a) a significantly decreased dwelling size (by 50-100 m2),
  - b) an increased range of dwelling types such as townhouse style developments, and
  - c) an increased percentage of publicly accessible open space, from that currently indicated in the proponent's concept plans.

### **VOTING**

**For the amendment:** Crs Falinski, Harris, Kirsch, Regan and Wilkins.

**Against the amendment:** Crs De Luca, Giltinan, Laugesen, Ray and Sutton.

THERE BEING AN EQUAL NUMBER OF VOTES, THE MAYOR USED HIS CASTING VOTE AGAINST THE AMENDMENT, WHICH WAS DECLARED LOST.

### **18/12 RESOLVED**

#### ***Cr Sutton / Cr De Luca***

- A. That Council support the Planning Proposal – 26 Campbell Avenue, Cromer.
- B. That Council refer the Planning Proposal, and any relevant supporting information, to the Department of Planning and Infrastructure for a Gateway Determination pursuant to Section 54 of the Environmental Planning and Assessment Act.
- C. That Council notify the applicant, Binburra Pty Ltd, of its decision.
- D. That Council notify all persons who made submissions of Council's decision.
- E. That should the Department of Planning and Infrastructure require additional information to enable the amending LEP to proceed, this be provided by Council staff, as required.
- F. That development controls relating to the development of the land be incorporated in an amendment to the draft Warringah Development Control Plan 2009.
- G. That Council staff work with the proponent to develop a Voluntary Planning Agreement, which currently includes the dedication of land as proposed in writing by the applicant, to facilitate the Planning Proposal for the site.

### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Laugesen, Regan, Sutton and Wilkins.

**Against the resolution:** Crs Harris, Kirsch and Ray.

IN ACCORDANCE WITH CLAUSE 13.2(ii) OF COUNCIL'S CODE OF MEETING PRACTICE, THE MEETING WAS ADJOURNED AT 8.00PM. THE MEETING RESUMED AT 8.08PM WITH ALL COUNCILLORS PRESENT.

## **6.0 MATTERS CARRIED OVER FROM THE COUNCIL MEETING OF 13 DECEMBER 2011**

### **GENERAL MANAGER'S REPORTS**

#### **6.1 Minutes of the SHOROC Inc Board Meeting held 16 November 2011**

(BP REF 1)

19/12 **RESOLVED**

***Cr Regan / Cr Falinski***

That the Minutes of the SHOROC Incorporated Board Meeting of 16 November 2011 be noted and the recommendations contained therein be ADOPTED.

### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

### **NOTICES OF MOTION**

#### **6.2 Notice of Motion No 68/2011 Environmental Levy for the Purposes of Acquiring Environmentally Sensitive Land**

(BP REF 23)

***Cr Harris / Cr Kirsch***

That Council call for a report into the possibility of using an environmental levy for the purposes of acquiring environmentally sensitive land.

## **VOTING**

**For the motion:** Crs Harris, Kirsch, Ray and Regan.

**Against the motion:** Crs De Luca, Falinski, Giltinan, Laugesen, Sutton and Wilkins.

THE MOTION, UPON BEING PUT, WAS DECLARED LOST.

## **8.0 CORPORATE SERVICES DIVISION REPORTS**

### **8.2 Staff Report on Notice of Motion No 38/2011 Rates E-Notice**

(BP REF 29)

#### ***Cr Falinski/Cr Regan***

That Warringah Council offer the option to Ratepayers to receive rates notices electronically, and allow, where appropriate, incentives to encourage up take of this service, but without offering the \$1 donation per rate notice.

## **AMENDMENT**

#### ***Cr Kirsch/Cr Ray***

That Warringah Council offer the option to ratepayers to receive rates notices electronically, and offer \$1 donation per rate notice for the soon to be finalised land environmental fund.

CR LAUGESSEN LEFT THE CHAMBER AT 8.22PM.

## **VOTING**

**For the amendment:** Crs Harris, Kirsch and Ray.

**Against the amendment:** Crs De Luca, Falinski, Giltinan, Regan, Sutton and Wilkins.

THE AMENDMENT, UPON BEING PUT, WAS DECLARED LOST.

CR LAUGESSEN WAS ABSENT FROM THE CHAMBER DURING VOTING ON THIS ITEM.

**20/12 RESOLVED**

***Cr Falinski/Cr Regan***

That Warringah Council offer the option to Ratepayers to receive rates notices electronically, and allow, where appropriate, incentives to encourage up take of this service.

**VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

CR LAUGESSEN WAS ABSENT FROM THE CHAMBER DURING CONSIDERATION AND VOTING ON THIS ITEM.

CR LAUGESSEN RETURNED TO THE CHAMBER AT 8.30PM.

## **9.0 STRATEGIC AND DEVELOPMENT SERVICES DIVISION REPORTS**

### **9.5 Freshwater Village Draft Development Control Plan**

(BP REF 85)

**21/12 RESOLVED**

***Cr Regan / Cr Wilkins***

- A. That Council note the contents of this report and the Freshwater Village Draft Development Control Plan in the Attachment Booklet.
- B. That Council place the Freshwater Village Draft Development Control Plan in the Attachment Booklet on public exhibition for a minimum 28 days and invite submissions from interested persons.
- C. That Council note the Freshwater Village Working Party recommendations in regard to the draft Development Control Plan.
- D. That Council staff give priority to the preparation of a planning report that considers the appropriate functions, zoning and classification of the Oliver Street car park.
- E. That this planning report be undertaken as part of the Sustainable Urban Planning work program as identified in the Strategic Community Plan 2011, which involves the review of zoning and land classifications of Council car parks in Warringah.



## **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Regan, Sutton and Wilkins.

**Against the resolution:** Cr Ray.

## **10.0 COMMUNITY AND ENVIRONMENTAL SERVICES DIVISION REPORTS**

### **10.4 Minutes of the Narrabeen Lagoon Floodplain Risk Management Working Group Meetings held 17 February, 12 May, 1 September and 1 December 2011**

(BP REF 109)

22/12 **RESOLVED**

***Cr Wilkins / Cr Regan***

- A. That the minutes of the Narrabeen Lagoon Floodplain Risk Management Working Group (NLFRMWG) Meetings held at Pittwater Council on 17 February, 12 May, 1 September and 1 December 2011 be noted.
- B. That Council confirm Councillors Falinski, Harris and Ray as members of the Working Group and nominate Councillor Harris as chairperson for these meetings.

## **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

## **10.5 Glen Street Theatre - Staff Tickets**

(BP REF 114)

23/12 **RESOLVED**

***Cr Harris / Cr Kirsch***

- A. That the schedule of Fees and Charges for the year 2011/12 be amended to include a Warringah Council special ticket price available to staff, community committee members, SRG members and Councillors to be endorsed and placed on public exhibition for 28 days during which period submissions covering this change may be made.

- B. That a further report be submitted to Council concerning all submissions following the exhibition period to enable consideration of any submissions and the formal adoption of the Fees and Charges schedule.

## VOTING

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

## 11.0 NOTICES OF RESCISSION

### 11.1 Notice of Rescission Motion No 11/2011 Notice of Rescission Motion No 10/2011 - Adoption of GOV-PL 130 - Code of Meeting Practice – Item 10.2, 13 December 2011

(BP REF 124)

24/12 **RESOLVED**

**Cr Ray / Cr Regan**

That the Council's resolution relating to Item 10.2, BP Ref 196, passed at the meeting of the Council held on 13 December 2011 which reads as follows:

"That GOV-PL 130 Code of Meeting Practice be adopted as per the attachment booklet to Item 9.2 of the 22 November Council Meeting together with the following additional amendments:

- A. That Clause 22(1) of the Code of Meeting Practice be amended to provide as follows:

*At all Council Meetings each councillor may only ask a maximum of three Questions on Notice which do not comprise multiple parts under the segment of the business paper designated for that purpose.*

- B. That Clause 53 of the Code of Meeting Practice be deleted.

- C. That Clause 14.3 of the Code of Meeting Practice be amended to insert the following:

*iv. Upon any Rescission Motion being lodged, all Councillors are notified and provided a copy within two business days of its receipt*

- D. That the subsequent clauses will be renumbered accordingly."

be and is hereby rescinded.

CR SUTTON LEFT THE CHAMBER AT 8.37PM AND RETURNED AT 8.38PM.

## VOTING

**For the resolution:** Crs De Luca, Harris, Kirsch, Laugesen, Ray, Regan and Sutton.

**Against the resolution:** Crs Falinski, Giltinan and Wilkins.

## CONSEQUENTIAL MOTION

AT THIS STAGE, THE MOVER, WITH THE CONSENT OF THE SECONDER, AMENDED THE MOTION TO READ:

### **Cr Ray / Cr Regan**

That GOV-PL 130 Code of Meeting Practice be adopted as per the attachment booklet to Item 9.2 of the 22 November 2011 Council Meeting together with the following subsequent amendments:

A. That Amendment Two contained within the associated report be amended to read:

*'All notices of motions, including Mayoral Minutes and business paper recommendations, where monies are to be expended, shall identify an equivalent funding source from additional revenue generation, cuts or savings in the proposed expenditure on projects or programs.'*

B. That Clause 22(1) of the Code of Meeting Practice be amended to provide as follows:

*At all Council Meetings each councillor may only ask a maximum of three Questions on Notice which do not comprise multiple parts under the segment of the business paper designated for that purpose.*

C. That Clause 53 of the Code of Meeting Practice be deleted.

D. The deletion of the following two paragraphs contained within the 'Guidelines – Request to Address Council' (pg 63 of the attachment booklet)

*'There will be no speakers heard on the agenda items referred from the WDAP and the WDRP or Category 3 Public Hearings as those items have already been made open to comment at the public meeting and members of the public have already had the opportunity to express their views'.*

*'There will be no speakers heard on agenda items referred from the WDAP and the WDRP or Category 3 Public Hearings as they have already had the opportunity to express their views' and;*

E. That Clause 14.3 of the Code of Meeting Practice be amended to insert the following:

*iv. Upon any Rescission Motion being lodged, all Councillors are notified and provided a copy within two business days of its receipt*

F. That the subsequent clauses will be renumbered accordingly.

## AMENDMENT

### **Cr De Luca / Cr Laugesen**

That GOV-PL 130 Code of Meeting Practice be adopted as per the attachment booklet to Item 9.2 of the 22 November 2011 Council Meeting together with the following subsequent amendments:

A. That Amendment Two contained within the associated report be amended to read:

*'All notices of motions, including Mayoral Minutes and business paper recommendations, where required, shall identify an equivalent funding source from additional revenue generation, cuts or savings in the proposed expenditure on projects or programs.'*

B. That Clause 53 of the Code of Meeting Practice be deleted.

C. The deletion of the following two paragraphs contained within the 'Guidelines – Request to Address Council' (pg 63 of the attachment booklet)

*'There will be no speakers heard on the agenda items referred from the WDAP and the WDRP or Category 3 Public Hearings as those items have already been made open to comment at the public meeting and members of the public have already had the opportunity to express their views'.*

*'There will be no speakers heard on agenda items referred from the WDAP and the WDRP or Category 3 Public Hearings as they have already had the opportunity to express their views' and;*

D. That Clause 14.3 of the Code of Meeting Practice be amended to insert the following:

*iv. Upon any Rescission Motion being lodged, all Councillors are notified and provided a copy within two business days of its receipt*

E. That the subsequent clauses will be renumbered accordingly.

## VOTING

**For the amendment:** Crs De Luca, Harris, Kirsch, Laugesen and Ray.

**Against the amendment:** Crs Falinski, Giltinan, Regan, Sutton and Wilkins.

THERE BEING AN EQUAL NUMBER OF VOTES, THE MAYOR USED HIS CASTING VOTE AGAINST THE AMENDMENT, WHICH WAS DECLARED LOST.

## 25/12 RESOLVED

### **Cr Ray / Cr Regan**

That GOV-PL 130 Code of Meeting Practice be adopted as per the attachment booklet to Item 9.2 of the 22 November 2011 Council Meeting together with the following subsequent amendments:

A. That Amendment Two contained within the associated report be amended to read:

*'All notices of motions, including Mayoral Minutes and business paper recommendations, where monies are to be expended, shall identify an equivalent*

*funding source from additional revenue generation, cuts or savings in the proposed expenditure on projects or programs.'*

- B. That Clause 22(1) of the Code of Meeting Practice be amended to provide as follows:

*At all Council Meetings each councillor may only ask a maximum of three Questions on Notice which do not comprise multiple parts under the segment of the business paper designated for that purpose.*

- C. That Clause 53 of the Code of Meeting Practice be deleted.

- D. The deletion of the following two paragraphs contained within the 'Guidelines – Request to Address Council' (pg 63 of the attachment booklet)

*'There will be no speakers heard on the agenda items referred from the WDAP and the WDRP or Category 3 Public Hearings as those items have already been made open to comment at the public meeting and members of the public have already had the opportunity to express their views'.*

*'There will be no speakers heard on agenda items referred from the WDAP and the WDRP or Category 3 Public Hearings as they have already had the opportunity to express their views' and;*

- E. That Clause 14.3 of the Code of Meeting Practice be amended to insert the following:

*iv. Upon any Rescission Motion being lodged, all Councillors are notified and provided a copy within two business days of its receipt*

- F. That the subsequent clauses will be renumbered accordingly.

## **VOTING**

**For the resolution:** Crs Falinski, Giltinan, Harris, Kirsch, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Crs De Luca and Laugesen.

## **12.0 NOTICES OF MOTION**

CR KIRSCH LEFT THE CHAMBER AT 9.03PM DUE TO A DECLARED LESS THAN SIGNIFICANT, NON PECUNIARY INTEREST.

CR HARRIS LEFT THE CHAMBER AT 9.03PM DUE TO A DECLARED SIGNIFICANT, NON PECUNIARY INTEREST.

## **12.1 Notice of Motion No 1/2012 Waiving of Fees for Forestville Memorial Hall for the 'Save the Styx Turns Blue'**

(BP REF 127)

***Cr Falinski / Cr Giltinan***

That the fees for the hire of Forestville Memorial Hall for the 'Save the Styx Turns Blue' function on 18 February 2012, a fundraising event to alert the problem of our unsustainable use of plastic, not be charged as a contribution to this event by Warringah Council, with the condition that Warringah Council be acknowledged.

### **VOTING**

**For the motion:** Crs Falinski, Giltinan and Sutton.

**Against the motion:** Crs De Luca, Laugesen, Ray, Regan and Wilkins.

THE MOTION, UPON BEING PUT, WAS DECLARED LOST.

CRS HARRIS AND KIRSCH WERE ABSENT FROM THE CHAMBER DURING CONSIDERATION OF AND VOTING ON THIS ITEM.

CR FALINSKI LEFT THE CHAMBER AT 9.09PM AND RETURNED AT 9.09PM.

## **12.2 Notice of Motion No 2/2012 Driveway at 14 Lyly Road, Allambie Heights**

(BP REF 128)

CR FALINSKI LEFT THE CHAMBER AT 9.12PM AND RETURNED AT 9.12PM.

26/12 **RESOLVED**

***Cr Giltinan / Cr Sutton***

In relation to the Orders to rectify the driveway at 14 Lyly Road, Allambie Heights, that a further extension of time to comply with the Orders be provided to Mr Francis to resolve this issue with Council staff.

## VOTING

**For the resolution:** Crs De Luca, Falinski, Giltinan, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

CRS HARRIS AND KIRSCH WERE ABSENT FROM THE CHAMBER DURING CONSIDERATION OF AND VOTING ON THIS ITEM.

## 15.0 CONFIDENTIAL MATTERS – CLOSED SESSION

(BP REF 138)

27/12 **RESOLVED**

***Cr Regan / Cr Sutton***

- A. That, on the grounds and for the reasons stated below, the Council resolve into Closed Session to receive and consider the items identified as Confidential and listed on this Agenda as :

- Item 15.1 Mayoral Minute No 34/2011 Annual Performance Review of the General Manager July 2010 - July 2011
- Item 15.2 Deputy General Manager Strategic and Development Services Recruitment
- Item 15.4 Overpayment of Revenue by State Debt Recovery Office
- Item 15.5 Tender 2011/116 – Publicity Services for Glen Street Theatre

### **Matters to be Discussed During Closed Session - Section 10D**

- Item 15.1 Mayoral Minute No 34/2011 Annual Performance Review of the General Manager July 2010 - July 2011
- Item 15.2 Deputy General Manager Strategic and Development Services Recruitment
- Item 15.4 Overpayment of Revenue by State Debt Recovery Office
- Item 15.5 Tender 2011/116 – Publicity Services for Glen Street Theatre

### **Grounds on which Matter Should be Considered in Closed Session – Section 10A(2)**

- Item 15.1 (a) personnel matters concerning particular individuals (other than councillors)
- Item 15.2 (a) personnel matters concerning particular individuals (other than councillors)
- Item 15.4 (d) commercial information of a confidential nature that would if disclosed:
  - (i) prejudice the commercial position of the person who supplied it
- Item 15.5 (d) commercial information of a confidential nature that would if disclosed:
  - (ii) prejudice the commercial position of the person who supplied it

### **Reason Why Matters are being considered in Closed Session – Section 10B**

- B. To preserve the relevant confidentiality, privilege or security of such information.

- C. That pursuant to Section 10A Subsections 2 & 3 and 10B of the Local Government Act 1993 (as amended), the press and public be excluded from the proceedings of the Council in Closed Session on the basis that the items to be considered are of a confidential nature.
- D. That the closure of that part of the meeting for the receipt or discussion of the nominated item or information relating thereto is necessary to preserve the relevant confidentiality, privilege or security of such information.
- E. That the Minutes and Business Papers including any reports, correspondence, documentation or information relating to such matter be treated as Confidential and be withheld from access by the press and public, until such time as the reason for confidentiality has passed or become irrelevant because these documents relate to a matter specified in section 10A(2).
- F. That the resolutions made by the Council in Closed Session be made public after the conclusion of the Closed Session and such resolutions be recorded in the Minutes of the Council Meeting.

## **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

CRS HARRIS AND KIRSCH WERE ABSENT FROM THE CHAMBER DURING CONSIDERATION OF AND VOTING ON THIS ITEM.

THE MEETING MOVED INTO CLOSED SESSION AT 9.16PM.

THE MEETING RESUMED IN OPEN SESSION AT 10.03PM.

## **16.0 REPORT OF RESOLUTIONS PASSED IN CLOSED SESSION**

THE DEPUTY GENERAL MANAGER COMMUNITY AND ENVIRONMENTAL SERVICES REPORTED ON RESOLUTIONS PASSED IN CLOSED SESSION.

### **15.3 Tender 2011/123 - Pittwater Road Collaroy - Streetscape Improvements**

(BP REF C8)

28/12 **RESOLVED**

- A. That pursuant to clause 178 (1) (a) of the Local Government (General) Regulation 2005, Council accept the tender of Sydney Civil Pty Ltd in the lump sum amount of \$1,035,103.00 (ex GST) for Tender 2011/123 – Pittwater Road Collaroy Streetscape Improvements, and



- B. That Council delegate authority to the General Manager to execute the contract including a contingency amount of \$155,265 (ex GST) representing approximately 15% of the contract value.

(THIS ITEM WAS DEALT WITH BY EXCEPTION EARLIER IN THE MEETING.)

## **15.2 Deputy General Manager Strategic and Development Services Recruitment**

(BP REF C3)

31/12 **RESOLVED**

***Cr Regan / Cr Falinski***

- A. That Council approves the organisational structure including senior staff positions to comprise three senior staff, being the General Manager, Deputy General Manager Environment and Deputy General Manager Community.
- B. That Council notes the intention of the General Manager to appoint Malcolm Ryan to the position of Deputy General Manager Environment and John Warburton to the position of Deputy General Manager Community.

### **VOTING**

**For the resolution:** Crs Falinski, Giltinan, Harris, Kirsch, Regan, Sutton and Wilkins.

**Against the resolution:** Crs De Luca, Laugesen and Ray.

## **15.1 Mayoral Minute No 34/2011 Annual Performance Review of the General Manager July 2010 - June 2011**

(BP REF C1)

32/12 **RESOLVED**

***Cr Regan***

- A. That the outcomes contained in the Performance Review of the General Manager Report July 2010 – June 2011 be adopted.
- B. That the Mayor and General Manager sign the report to conclude the process.

## VOTING

**For the resolution:** Crs Falinski, Giltinan, Harris, Kirsch, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Crs De Luca and Laugesen.

## SUPPLEMENTARY MOTION

33/12 **RESOLVED**

***Cr Regan / Cr Giltinan***

That Council, as a consequence of its approval of the new organisational structure and senior staff positions, including the increased responsibilities of the General Manager and in recognition of his outstanding performance, approves an increase of \$20,000 in the General Manager's salary.

CR LAUGESSEN LEFT THE CHAMBER AT 10.01PM.

## VOTING

**For the resolution:** Crs Falinski, Giltinan, Harris, Kirsch, Regan, Sutton and Wilkins.

**Against the resolution:** Crs De Luca and Ray.

CR LAUGESSEN WAS ABSENT FROM THE CHAMBER DURING CONSIDERATION OF AND VOTING ON THIS ITEM.

\_\_\_\_\_  
The meeting concluded at 10.06pm.  
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This is the final page of the Minutes comprising (26) pages numbered (1) to (26) of meeting 2012/1 of Warringah Council held on 14 February 2012 and confirmed on 28 February 2012.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
General Manager