



WARRINGAH
COUNCIL

MINUTES

ORDINARY COUNCIL MEETING

held at the Civic Centre, Dee Why on

TUESDAY 15 DECEMBER 2015

(2015/13)



Minutes of an Ordinary Meeting of Council
held on Tuesday 15 December 2015
at the Civic Centre, Dee Why
Commencing at 6:00pm

ATTENDANCE:

Members

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

Officers

Rik Hart	General Manager
John Warburton	Deputy General Manager Community
Malcolm Ryan	Deputy General Manager Environment
Vivienne Ingram	Executive Legal Counsel
Melissa Lee	Governance Manager
Ximena Von Oven	Administration Officer Governance
Dinesh Mishra	IM&T Support Officer
David Walsh	Chief Financial Officer
David Kerr	Group Manager Development Assessment & Compliance
Graham Middleton	Group Manager Marketing & Communications
Todd Dickinson	Group Manager Natural Environment
Belinda Noble	Media and Content Manager

NOTES

The meeting commenced at 6.00pm, adjourned at 7.47pm, resumed at 7.57pm, moved into closed session at 8.28pm, resumed in open session at 8.35pm and concluded at 8.37pm.

Item 11.2 was ruled out of order and removed from the Agenda.

1.0 APOLOGIES

272/15 **RESOLVED**

Cr Regan / Cr Gobert

That an apology for non-attendance be received from Councillor Duncan Kerr.

VOTING

For the resolution: Crs Daley, De Luca, Giltinan, Gobert, Harrison, Heins, Menano-

Pires, Moskal and Regan

Against the resolution: Nil

CARRIED

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF ORDINARY COUNCIL MEETING HELD 24 NOVEMBER 2015

273/15 **RESOLVED**

Cr Gobert / Cr Harrison

That the Minutes of the Ordinary Council Meeting held 24 November 2015, copies of which were previously circulated to all Councillors, are hereby confirmed as a true and correct record of the proceedings of that meeting.

VOTING

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

Against the resolution: Nil

CARRIED

3.0 DECLARATION OF PECUNIARY INTEREST AND CONFLICTS OF INTEREST

Nil

4.0 PUBLIC FORUM

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 Jack Tilburn asked the following question regarding Social and Affordable Housing Policy by Council

- A) Has the Council approached the NSW Government's Social and Affordable Housing Fund as announced in the SMH of Monday, 7 December 2015 so as to help with its own Affordable Housing Discussion Paper and Action Plan? And if not, then why not?
- B) Has the Council available any of its own funds to contemplate trying to build say 2 or 3 or 4 lots of practical, conventional Social and Affordable Housing units or small houses to start the ball rolling? And if not, then why not?
- C) Is the Council really keen to shirt-front this issue and seriously try to implement ASAP with outside building and housing agencies the first of Council-led affordable housing building construction infrastructure? And if not, then why not?
- D) a) Is the concept of Council's policy on Social and Affordable Housing an impossible reality and dream because of too many building and financial obstacles and hurdles to overcome?

- b) So is it all talk and no concrete affordable housing policy building concepts and plans with suitable low-costs, small houses and units to come into fruition and be completed ASAP?

Response:

The Mayor advised that a written response would be provided to Mr Tilburn.

4.2 Ann Sharp, representing the Manly Dam Catchment Committee made a statement regarding the WAC Site (lease proposal)**5.0 MAYORAL MINUTES**

Nil

PROCEDURAL MOTION - ITEMS MOVED BY EXCEPTION

274/15 **RESOLVED**

Cr Regan / Cr Gobert

That the Order of Business be changed so Items 6.1, 6.2, 6.3, 7.1, 8.1, 8.2, 8.3, 8.7, 8.9, 8.10, 13.1, 13.2, 13.3, 13.4, 13.5, 13.7 are dealt with by exception with the recommendations of the general Manager / Deputy General Managers being adopted.

VOTING

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

Against the resolution: Nil

CARRIED

ITEMS RESOLVED BY EXCEPTION:**6.1 MINUTES OF THE SHOROC INCORPORATED BOARD MEETING HELD 25 NOVEMBER 2015**

275/15 **RESOLVED**

Cr Regan/ Cr Gobert

That Council note the Minutes of the SHOROC Incorporated Board Meeting held 25 November 2015.

RESOLVED BY EXCEPTION

6.2 MINUTES OF THE SHOROC INC ANNUAL GENERAL MEETING HELD 25 NOVEMBER 2015

276/15 **RESOLVED**

Cr Regan/ Cr Gobert

That Council note the Minutes of the SHOROC Incorporated Annual General Meeting held 25 November 2015.

RESOLVED BY EXCEPTION

6.3 MONTHLY FUNDS MANAGEMENT REPORT NOVEMBER 2015**277/15 RESOLVED*****Cr Regan/ Cr Gobert***

That Council note:

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

RESOLVED BY EXCEPTION**7.1 WAREHAM RESERVE FRENCHS FOREST - PROPOSED EASEMENT TO DRAIN WATER IN FAVOUR OF 31 FOREST WAY FRENCHS FOREST****278/15 RESOLVED*****Cr Regan/ Cr Gobert***

That:

- A. Council subject to Item C of this recommendation, authorise a 1 metre wide Easement to Drain Water and associated Positive Covenant, by underground pipe within Lot 38 DP215216 Wareham Reserve Frenchs Forest in favour of 31 Forest Way Frenchs Forest (Lot 8 DP 23064) for an amount in accordance with Council's adopted Fees and Charges.
- B. Council 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.

RESOLVED BY EXCEPTION**8.1 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS - STATE ENVIRONMENTAL PLANNING POLICY NO. 1 - DEVELOPMENT STANDARDS AND CLAUSE 4.6 OF WARRINGAH LOCAL ENVIRONMENT PLAN****279/15 RESOLVED*****Cr Regan/ Cr Gobert***

That Council note:

- A. The report identifying all State Environmental Planning Policy No.1 variations granted between 1 July 2015 and 30 September 2015, and
- B. The report identifying all Clause 4.6 of the Warringah Local Environment Plan variations granted to Development Applications between 1 July 2015 and 30 September 2015.

RESOLVED BY EXCEPTION

8.2 MINUTES OF THE MANLY LAGOON CATCHMENT COORDINATING COMMITTEE MEETING HELD 30 JULY 2015

280/15 **RESOLVED**

Cr Regan/ Cr Gobert

That Council note the Minutes of the Manly Lagoon Catchment Coordinating Committee meeting held on 30 July 2015.

RESOLVED BY EXCEPTION

8.3 ADOPTION OF WATER MANAGEMENT POLICY

281/15 **RESOLVED**

Cr Regan/ Cr Gobert

That Council:

- A. Adopt the Water Management Policy
- B. Rescind the following six policies that have been incorporated into the Water Management Policy:
 - 1. *Building Over or Adjacent to Constructed Council Drainage Systems and Easements Policy PAS-PL 130.*
 - 2. *Onsite Stormwater Detention Rainwater Reuse for Single Residential Dwellings Policy PAS-PL 100.*
 - 3. *Removal of Private Trees Threatening Council Stormwater Pipes Policy ENV-PL 415*
 - 4. *Stormwater Drainage for Low Level Properties Policy PDS-POL 136*
 - 5. *Stormwater Drainage Policy ENV-PL 410*
 - 6. *Water Sensitive Urban Design Policy STR-PL 820A*

RESOLVED BY EXCEPTION

8.7 BUSH FIRE PRONE LAND MAP REVIEW EXHIBITION RESULTS

282/15 **RESOLVED**

Cr Regan/ Cr Gobert

That Council endorse the updated draft *Warringah Bush Fire Prone Land Map 2015* and submit the map to the Commissioner of the Rural Fire Service for certification.

RESOLVED BY EXCEPTION

8.9 ANNUAL REVIEW OF GOV-PL 120 - PAYMENT AND REIMBURSEMENT OF EXPENSES INCURRED BY, AND PROVISION OF FACILITIES TO, THE MAYOR, DEPUTY MAYOR AND COUNCILLORS**283/15 RESOLVED*****Cr Regan/ Cr Gobert***

That GOV-PL 120 Payment and Re-imbursement of Expenses Incurred by, and Provision of Facilities to The Mayor, Deputy Mayor and Councillors be placed on public exhibition for 28 days and the results reported back to Council.

RESOLVED BY EXCEPTION**8.10 MINUTES OF STRATEGIC REFERENCE GROUPS****284/15 RESOLVED*****Cr Regan/ Cr Gobert***

That Council note the draft minutes and notes from the following meetings:

- A. A Connected Environment Strategic Reference Group meeting held on 17 November 2015.
- B. Vibrant Connected Communities Strategic Reference Group meeting held 17 November 2015.
- C. Environment, Conservation and Overall Sustainability Strategic Reference Group meeting held 18 November 2015.
- D. Open Space and Recreation Strategic Reference Group meeting held 18 November 2015.

RESOLVED BY EXCEPTION**13.1 GENERAL MANAGERS PERFORMANCE REVIEW 2015/16****285/15 RESOLVED*****Cr Regan/ Cr Gobert***

That Council notes no further action on the matter of the General Managers Performance Plan for 2015-2016 is required.

RESOLVED BY EXCEPTION**13.2 RFT 2015/073 - NATURAL ENVIRONMENT SERVICES PANEL****286/15 RESOLVED*****Cr Regan/ Cr Gobert***

That

- A. Council accept the successful tender offers received from the eligible service providers as listed in this Report and as named in Appendix 1 for inclusion on Council's Natural Environment Services Panel. The appointment to the Panel will be for an initial period of three years - subject to satisfactory induction and continuing performance - with the option to

extend for a further 2 consecutive terms of up to one year each. CPI may apply to the schedule of rates after the first 12 months.

- B. The General Manager be delegated authority to execute the Deeds of Agreement with the companies as listed, subject to satisfactory induction.
- C. The General Manager be delegated authority to exercise Council's discretionary option to extend the panel agreements for up to 2 further consecutive terms of up to one year each.

RESOLVED BY EXCEPTION

13.3 RFT 2015/088 - CONSTRUCTION OF COLLAROY ACCESSIBILITY TOURISM PRECINCT - STAGE 2

287/15 **RESOLVED**

Cr Regan/ Cr Gobert

That Council:

- A. Pursuant to clause 178 (1) (a) of the Local Government (General) Regulation 2005, accept the tender of Glascott Landscape and Civil Pty Ltd for the Construction of Collaroy Accessibility Tourism Precinct – Stage 2 as outlined in the attached Council report and;
- B. Pursuant to Section 377 (1) of the Local Government Act 1993, delegate authority to the General Manager to execute the contract with Glascott Landscape and Civil Pty Ltd, as specified in Tender RFT 2015/088, including lump sum and contingency costs as outlined in the attached Council report.

RESOLVED BY EXCEPTION

13.4 UPDATE ON THE MANLY WARRINGAH SEA EAGLES OUTSTANDING DEBTS

288/15 **RESOLVED**

Cr Regan/ Cr Gobert

That Council:

- A. Makes a final “without prejudice” offer to Manly Warringah Sea Eagles Limited in respect of the monies owed to Council for the 2015 National Rugby League season, in the terms of the letter dated 2 December 2015 from the General Manager to the MWSE; and
- B. Delegate to the General Manager the authority to do all things necessary to give effect to this resolution.

RESOLVED BY EXCEPTION

13.5 RFT 2015/083 - TRAMSHED ARTS & COMMUNITY CENTRE BUILDING UPGRADE WORKS

289/15 **RESOLVED**

Cr Regan/ Cr Gobert

That Council:

- A. declines to accept any of the tenders received for RTF 2015/083 – Tramshed Arts &

Community Centre Building Upgrade Works;

- B. in accordance with clause 178(3)(e) of the *Local Government (General) Regulation 2005*, enters into negotiations with Momentum Built and no less than two other entities or persons to undertake the works with a view to entering into a contract in relation to the subject matter of the tender;
- C. declines to invite fresh tenders or applications as referred to in clause 178(3)(b)-(d) of the *Local Government (General) Regulation 2005* because a better result would not be achieved and the need to obtain the services is time sensitive;
- D. notes, for the purpose of clause 178(4)(b) of the *Local Government (General) Regulation 2005*, that entering into negotiations with the persons referred to at B is expected to result in a contract with reasonable financial terms that offers value for money to Council;
- E. delegates authority to the General Manager to give effect to the above including entering into the negotiations and executing a negotiated contract on behalf of Council.

RESOLVED BY EXCEPTION

13.7 LAND CLEARING UPDATE

290/15 **RESOLVED**

Cr Regan / Cr Harrison

That Council:

- A. Adopts the Tree Preservation Order and;
- B. Authorises the General Manager to publish the Tree Preservation Order in its entirety in the Manly Daily.

RESOLVED BY EXCEPTION

PROCEDURAL MOTION – MATTER OF URGENCY

291/15 **RESOLVED**

Cr Regan / Cr Harrison

That, in accordance with Clause 18 of the Code of Meeting Practice, Council considers the staff report in relation to the Strategic Review: The Risks of Splitting Warringah on the basis that it is urgent as the report is significant to our residents and a decision by the State Government is imminent.

That:

- A. The finding of the business case on *Strategic Review: the risks of splitting Warringah* be noted
- B. The business case: *Strategic Review: the risks of splitting Warringah* be provided to the NSW Government.

VOTING

For the resolution: Crs Giltinan, Gobert, Harrison, Heins, Menano-Pires, Moskal and Regan

Against the resolution: Crs Daley and De Luca

CARRIED

NOTE: The Mayor subsequently ruled that the matter was one of urgency and that the item would be dealt with as the last item of the agenda and be given Item No 6.4 as it was a General Managers report.

7.0 COMMUNITY DIVISION REPORTS

7.2 PUBLIC GREEN FEES AT LONG REEF GOLF COURSE

292/15 **RESOLVED**

Cr Menano-Pires / Cr Harrison

That:

- A. Council agrees to the request of the Long Reef Golf Club Board of Directors for an increase in green fees up to but not exceeding 10% as requested by Long Reef Golf Club.
- B. Long Reef Golf Club Limited be required to provide reasonable and appropriate notification of any approved increase to golf course users.

VOTING

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

Against the resolution: Nil

CARRIED

7.3 WARRINGAH RECREATION CENTRE - LIVE LIFE GET ACTIVE REQUEST FOR FEE WAIVING

293/15 **RESOLVED**

Cr Regan / Cr Harrison

That Council waive the court hire fees of approximately \$10,000 for the Live Life Get Active organisation at the Warringah Recreation Centre until 31 August 2016.

VOTING

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

Against the resolution: Nil

CARRIED

7.4 DRAFT - AMENDMENT OF 2015/16 FEES AND CHARGES - BROOKVALE OVAL HIRE FEES

Cr Heins/Cr Menano-Pires

- A. That Council endorses, subject to compliance with the requirements of the *Local Government Act 1993*:
- a) New hire fees for Council's 2015/16 Fees and Charges (as listed in the report) to be publicly exhibited for 50 days for Nationally based professional sporting competition and trial matches at Brookvale Oval, and reported back to Council.
 - b) That proposed hirers will be subject to further terms and conditions of hire within a separate document including the possibility that the ground may not be available at NRL standard on the day of hire.
- B. That Council only accept bookings for nationally based professional sporting competition and trial matches if all hire fees or any outstanding fees are paid in full (Booking Fee, Cash Bond and cost for Utilities) prior to the Booking Date.

Councillor Menano-Pires left the chamber at 6:34pm and returned at 6:36pm.

PROCEDURAL MOTION – CHANGE ORDER OF BUSINESS

294/15 **RESOLVED**

Cr Regan / Cr Harrison

That the Order of Business be changed so Item 7.4 be dealt with as the last Item on the agenda.

VOTING

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

Against the resolution: Nil

CARRIED

8.0 ENVIRONMENT DIVISION REPORTS

8.4 ADOPTION OF URBAN FOREST POLICY

295/15 **RESOLVED**

Cr Heins / Cr Moskal

That Council adopt the Urban Forest Policy.

VOTING

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

Against the resolution: Nil

CARRIED

8.5 SUBMISSION TO ABORIGINAL LAND CLAIMS 6166, 6136 AND 6139 AT FRENCHS FOREST AND BELROSE**296/15 RESOLVED*****Cr Menano-Pires / Cr Giltinan***

That the Council submission objects to the land claims, as follows:

- A. Claim 6139 based on the reasons stated in the report.
- B. Claims 6166 and 6136 based on the fact that those lands are needed or likely to be needed as residential lands.

(NOTE: Aboriginal Land Rights Act 1983, No 42, cl36(1)(b1))

Councillor Harrison left the chamber at 6:51pm and returned at 6:52pm

VOTING

For the resolution: Crs Giltinan, Harrison, Heins, Menano-Pires and Regan

Against the resolution: Crs Daley, De Luca, Gobert and Moskal

CARRIED**8.6 JUNEE SHIRE COUNCIL - FEASIBILITY STUDY INTO INFORMATION TECHNOLOGY PLATFORM PROPOSAL****297/15 RESOLVED*****Cr Daley / Cr Regan***

That Council note the Junee Shire Council feasibility study on its Information Technology Platform Proposal and revisit the proposal within 6 months.

VOTING

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

Against the resolution: Nil

CARRIED**8.8 DELEGATED AUTHORITY TO THE MAYOR – CHRISTMAS NEW YEAR RECESS 2015/2016****298/15 RESOLVED*****Cr Daley / Cr Harrison***

That Council, pursuant and subject to the limitations of Section 377 of the Local Government Act, authority grant to the Mayor to make such decisions and authorise work as provided by Policy GOV-PL125 - Decisions/ Delegations during Christmas/ New Year Recess during the 2015/2016 Christmas New Year recess being 16 December 2015 to 15 February 2016 inclusive.

VOTING

For the resolution: Crs Giltinan, Gobert, Harrison, Heins, Menano-Pires, Moskal and Regan

Against the resolution: Crs Daley and De Luca

CARRIED

9.0 NOTICES OF RESCISSION

Nil

10.0 NOTICES OF MOTION**10.1 NOTICE OF MOTION NO 23/2015 - COUNCIL EXPENDITURE ON ADVERTISING ON LOCAL GOVERNMENT REFORM**

Cr De Luca / Cr Giltinan

MOTION

1. That this Council notes with concern:
 - A. The excessive expenditure of ratepayers' money by Warringah Council amounting to \$226,657.81 on advertising and other material in pursuance of a one northern beaches.
 - B. The use of the Warringah Council Mayoral Column and other Warringah Council publications, for criticising other Councils and Mayors of adjoining Councils.
 - C. Warringah Council Media Releases claiming that should Warringah Council be divided into two Councils children will lose their child care places and the new Hospital will be in jeopardy.
2. That this Council resolves that all advertising and expenditure on the amalgamation campaign cease and that Council staff are not to participate in the amalgamation campaign.

VOTING

For the motion: Crs Daley, De Luca and Giltinan

Against the motion: Crs Gobert, Harrison, Heins, Menano-Pires, Moskal and Regan

LOST

10.2 NOTICE OF MOTION NO 24/2015 - NEED FOR REFORM OF AFFORDABLE HOUSING SEPP

Cr De Luca / Cr Giltinan

MOTION

- A. That this Council notes with concern:
 1. That despite 800 objections, Warringah Council's WDAP recommended approval of the proposed Affordable Housing Development at Grover Avenue, Cromer, two votes to one.
 2. The WDAP relied upon legal advice submitted by the developer in order to overcome

strict compliance with the SEPP.

3. The dissenting comments of the Community Representative on the Panel:

"Although the subject land is suitable for the development of an 8 unit boarding house in terms of site area and dimensions (frontage and depth) its location in the midst of an established, and essentially single residential community, is totally inappropriate from both a community and planning perspective.

Of principal concern is the fact that the proposed development will position up to 16 persons on a single residential lot; most of whom will almost certainly be 'transient', with little or no long term commitment to the established community. If the business model proves successful in terms of client demand it could give rise to similar developments nearby, with the further erosion of the existing community fabric. Such an outcome would be contrary to a principal aim of the WLEP 2011 to 'Protect and enhance the residential use and amenity of existing residential environments'".

4. The Australian Housing and Urban Research Institutes previous submission on the legislation:

"Where possible buildings should conform to existing planning controls and not 'pioneer' a building type"

5. The Law Society of NSW submission to the Government about the Affordable Housing SEPP:

"The AHSEPP ought to be amended so as to ensure that such incentive schemes are only implemented after appropriate consideration is given to the types of development permitted in the particular zone as well as issues such as density, location, and design. This will ensure that development is suitable for that area and that the amenity of neighbouring properties is not adversely affected".

- B. That this Council resolves to write to the NSW Premier, The Hon Mike Baird MP and NSW Minister for Planning, The Hon Dr Rob Stokes MP, calling for the NSW Government to:

1. Urgently review the Affordable Housing SEPP and amend the legislation so that appropriate consideration is given to local planning controls, the types of development permitted in the particular zone as well as issues such as density, location, and design and adverse effects on adjoining residences and local communities.
2. Amend the legislation to give Councils the power to compel an applicant to pay for certain independent studies and independent legal advice (as determined by the consent authority) on issues of concern to the assessing officer of the consent authority.
3. Amend the legislation that all Affordable Housing must be within 250m of an hourly public transport service, a shopping centre, doctor and chemist.
4. The consent authority and/or decision maker must have regard to public interest considerations.

Councillor Daley left the chamber at 7:29pm and returned to the chamber at 7:31pm

VOTING

For the motion: Crs De Luca Giltinan and Gobert

Against the motion: Crs Daley, Harrison, Heins, Menano-Pires, Moskal and Regan
LOST

11.0 QUESTIONS ON NOTICE

11.1 QUESTION ON NOTICE NO 28/2015 - FUNDS RAISED FROM DEE WHY BEACH SHED KIOSK

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

11.2 QUESTION ON NOTICE NO 29/2015 – EXPENDITURE ON IMPLEMENTING NEW W LOGO IN WARRINGAH

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

11.3 QUESTION ON NOTICE NO 30/2015 - INDUCEMENTS FOR SUPPORT OF ONE NORTHERN BEACHES CAMPAIGN

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

12.0 Responses To Questions On Notice

Nil

PROCEDURAL MOTION – CHANGE ORDER OF BUSINESS

299/15 **RESOLVED**

Cr De Luca / Cr Daley

That the Order of Business be changed so Items 6.4 and 7.4 be brought forward and dealt with immediately.

VOTING

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

Against the resolution: Nil

CARRIED

Councillors Giltinan, Gobert, and Heins left the chamber at 7:46pm

NOTE: Councillors Giltinan, Gobert and Heins were not present for the voting on this Item

In accordance with clause 13.2 (ii) of Council's Code of Meeting Practice, the meeting was adjourned at 7:47pm. The meeting resumed at 7:57pm with the same Councillors present

6.0 GENERAL MANAGER'S REPORTS

6.4 MATTER OF URGENCY – STRATEGIC REVIEW: THE RISKS OF SPLITTING WARRINGAH

300/15 **RESOLVED**

Cr Heins / Cr Menano-Pires

That:

- A. The finding of the business case on *Strategic Review: the risks of splitting Warringah* be noted
- B. The business case: Strategic Review: the risks of splitting Warringah be provided to the NSW Government.
- C. Undertake communications with the affected residents on any Fit for the Future announcements in accordance with the Community Engagement Policy.

VOTING

For the resolution: Crs Gobert, Harrison, Heins, Menano-Pires, Moskal and Regan

Against the resolution: Crs Daley, De Luca and Giltinan

CARRIED

7.0 COMMUNITY DIVISION REPORTS

7.4 DRAFT - AMENDMENT OF 2015/16 FEES AND CHARGES - BROOKVALE OVAL HIRE FEES

301/15 **RESOLVED**

Cr Heins / Cr Menano-Pires

- A. That Council endorses, subject to compliance with the requirements of the *Local Government Act 1993*:
 - a) New hire fees for Council's 2015/16 Fees and Charges (as listed in the report) to be publicly exhibited for 50 days for Nationally based professional sporting competitions and trial matches at Brookvale Oval, and reported back to Council.
 - b) That proposed hirers will be subject to further terms and conditions of hire within a separate document including the possibility that the ground may not be available at NRL standard on the day of hire.
- B That Council only accept bookings for Nationally based professional sporting competitions and trial matches if all hire fees or any outstanding fees are paid in full (Booking Fee, Cash Bond and cost for Utilities) prior to the Booking Date.

VOTING

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

Against the resolution: Nil

CARRIED

13.0 CONFIDENTIAL MATTERS – CLOSED SESSION

NOTE: The meeting moved into closed session at 8:28pm and resumed in open session at 8:35pm

302/15 RESOLVED

Cr Regan / Cr Harrison

- A. That, in accordance with the requirements of Section 10 of the *Local Government Act 1993* as addressed below, Council resolve to close the meeting to the public to consider and discuss:
- a Item 13.1 General Managers Performance Review 2015/16 on the basis that it involves the receipt and discussion of personnel matters concerning particular individuals (other than councillors) [10A(2)(a) Local Government Act 1993 (as amended) and Council's Code of Meeting Practice, this report is recommended to be considered in closed session on the following grounds:
Matters to be Discussed During Closed Session – Section 10D
Consideration of General Managers Performance Review 2015/16
Grounds on which matter should be considered in Closed Session – Section 10A(2)
(a) personnel matters concerning particular individuals (other than councillors)
Reason Why Matter is being considered in Closed Session and Contrary to Public Interest – Section 10B.
To preserve the relevant confidentiality, privilege or security of such information.
 - b Item 13.2 RFT 2015/073 - Natural Environment Services Panel on the basis that it involves the receipt and discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it [10A(2)(d(i)) Local Government Act 1993].
This report discusses the appointment of contractors to a Council procurement panel and the disclosure of this matter in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would prejudice the commercial position prospective suppliers.
 - c Item 13.3 RFT 2015/088 - Construction of Collaroy Accessibility Tourism Precinct - Stage 2 on the basis that it involves the receipt and discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it [10A(2)(d(i)) Local Government Act 1993].
This report discusses commercial information of a confidential nature and the disclosure of this matter in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would prejudice the commercial position of the company who supplied information.
 - d Item 13.4 Update on the Manly Warringah Sea Eagles Outstanding Debts on the basis that it involves the receipt and discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business [10A(2)(c) Local Government Act 1993]; and advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege [10A(2)(g) Local Government Act 1993].
This report discusses matters pertaining to licence payment fees and Council's legal and financial position on this and the disclosure of these matters in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would put Council at a commercial disadvantage with the licensee and reveal

confidential legal advice in respect of recovery action.

- e Item 13.5 - RFT 2015/083 - Tramshed Arts & Community Centre Building Upgrade Works on the basis that it involves the receipt and discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business [10A(2)(c) Local Government Act 1993].
This report discusses commercial information and the disclosure of this matter in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would prejudice confidentiality, privilege or security of such information.
- f Item 13.6 - RFT 2015/092 - Construction Services for Glen Street Cultural Hub Stage 2 - the New Library on the basis that it involves the receipt and discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business [10A(2)(c) Local Government Act 1993]; and commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it [10A(2)(d(i)) Local Government Act 1993].
This report discusses commercial information and the disclosure of this matter in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would prejudice the confidentiality, privilege or security of such information.
- g Item 13.7 - Land Clearing Update on the basis that it involves the receipt and discussion of advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege [10A(2)(g) Local Government Act 1993].
This report discusses a matter for litigation and the disclosure of this matter in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would contravene privacy

- B. 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 Daley, De Luca, Giltinan, Gobert, Harrison, Heins, Menano-Pires, Moskal and Regan

Against the resolution: Nil

CARRIED

NOTE: The General Manager reported the resolutions passed by exception and in closed session.

14.0 REPORT OF RESOLUTIONS PASSED IN CLOSED SESSION

13.1 GENERAL MANAGERS PERFORMANCE REVIEW 2015/16

285/15 **RESOLVED**

Cr Regan/ Cr Gobert

That Council notes no further action on the matter of the General Managers Performance Plan for 2015-2016 is required.

RESOLVED BY EXCEPTION

13.2 RFT 2015/073 - NATURAL ENVIRONMENT SERVICES PANEL

286/15 **RESOLVED**

Cr Regan/ Cr Gobert

That

- A. Council accept the successful tender offers received from the eligible service providers as listed in this Report and as named in Appendix 1 for inclusion on Council's Natural Environment Services Panel. The appointment to the Panel will be for an initial period of three years - subject to satisfactory induction and continuing performance - with the option to extend for a further 2 consecutive terms of up to one year each. CPI may apply to the schedule of rates after the first 12 months.
- B. The General Manager be delegated authority to execute the Deeds of Agreement with the companies as listed, subject to satisfactory induction.
- C. The General Manager be delegated authority to exercise Council's discretionary option to extend the panel agreements for up to 2 further consecutive terms of up to one year each.

RESOLVED BY EXCEPTION

13.3 RFT 2015/088 - CONSTRUCTION OF COLLAROY ACCESSIBILITY TOURISM PRECINCT - STAGE 2

287/15 **RESOLVED**

Cr Regan/ Cr Gobert

That Council:

- A. Pursuant to clause 178 (1) (a) of the Local Government (General) Regulation 2005, accept the tender of Glascott Landscape and Civil Pty Ltd for the Construction of Collaroy Accessibility Tourism Precinct – Stage 2 as outlined in the attached Council report and;
- B. Pursuant to Section 377 (1) of the Local Government Act 1993, delegate authority to the General Manager to execute the contract with Glascott Landscape and Civil Pty Ltd, as specified in Tender RFT 2015/088, including lump sum and contingency costs as outlined in the attached Council report.

RESOLVED BY EXCEPTION

13.4 UPDATE ON THE MANLY WARRINGAH SEA EAGLES OUTSTANDING DEBTS288/15 **RESOLVED****Cr Regan/ Cr Gobert**

That Council:

- A. Makes a final “without prejudice” offer to Manly Warringah Sea Eagles Limited in respect of the monies owed to Council for the 2015 National Rugby League season, in the terms of the letter dated 2 December 2015 from the General Manager to the MWSE; and
- B. Delegate to the General Manager the authority to do all things necessary to give effect to this resolution.

RESOLVED BY EXCEPTION**13.5 RFT 2015/083 - TRAMSHED ARTS & COMMUNITY CENTRE BUILDING UPGRADE WORKS**289/15 **RESOLVED****Cr Regan/ Cr Gobert**

That Council:

- A. declines to accept any of the tenders received for RTF 2015/083 – Tramshed Arts & Community Centre Building Upgrade Works;
- B. in accordance with clause 178(3)(e) of the *Local Government (General) Regulation 2005*, enters into negotiations with Momentum Built and no less than two other entities or persons to undertake the works with a view to entering into a contract in relation to the subject matter of the tender;
- C. declines to invite fresh tenders or applications as referred to in clause 178(3)(b)-(d) of the *Local Government (General) Regulation 2005* because a better result would not be achieved and the need to obtain the services is time sensitive;
- D. notes, for the purpose of clause 178(4)(b) of the *Local Government (General) Regulation 2005*, that entering into negotiations with the persons referred to at B is expected to result in a contract with reasonable financial terms that offers value for money to Council;
- E. delegates authority to the General Manager to give effect to the above including entering into the negotiations and executing a negotiated contract on behalf of Council.

RESOLVED BY EXCEPTION**13.6 RFT 2015/092 - CONSTRUCTION SERVICES FOR GLEN STREET CULTURAL HUB STAGE 2 - THE NEW LIBRARY**303/15 **RESOLVED****Cr Menano-Pires / Cr Regan**

That:

- A. Council accepts the tender of Stephen Edwards Constructions Pty Ltd for RFT 2015/092 – Construction Services for Glen Street Cultural Hub Stage 2 – The New Library for the sum of

\$4,046,719.55 excluding GST plus the contingency amount noted in the report.

- B. Authority be delegated to the General Manager to execute all necessary documentation to give effect to this resolution and to approve contract payments up to the amount specified in the confidential tender report.
- C. That surplus funds available from this project be directed towards capital projects in this locality in this budget period.

VOTING

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

Against the resolution: Nil

CARRIED

13.7 LAND CLEARING UPDATE

290/15 **RESOLVED**

Cr Regan / Cr Harrison

That Council:

- A. Adopts the Tree Preservation Order and;
- B. Authorises the General Manager to publish the Tree Preservation Order in its entirety in the Manly Daily.

RESOLVED BY EXCEPTION

The meeting concluded at 8:37pm

This is the final page of the minutes comprising 21 pages
numbered 1 to 21 of the Ordinary Council Meeting
held on Tuesday 15 December 2015 and confirmed on Tuesday 16 February 2016

Mayor

General Manager