



WARRINGAH
COUNCIL

MINUTES

ORDINARY COUNCIL MEETING

held at the Civic Centre, Dee Why on

TUESDAY 27 OCTOBER 2015

(2015/10)



**Minutes of an Ordinary Meeting of Council
held on Tuesday 27 October 2015
at the Civic Centre, Dee Why
Commencing at 6:00pm**

ATTENDANCE:

Members

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

Officers

John Warburton	Deputy General Manager Community
Malcolm Ryan	Acting Deputy General Manager Environment
Eskil Julliard	Acting Executive Legal Counsel
Melissa Lee	Governance Manager – Special Projects
Ximena Von Oven	Administration Officer Governance
Sam Smith	IM&T Support Officer
David Walsh	Chief Financial Officer
Campbell Pfeiffer	Group Manager Building Property & Spatial Information
Adam Vine	Group Manager Business & Risk
David Kerr	Group Manager Development Assessment & Compliance
Melodie Whiting	Group Manager Human Resources
Graham Middleton	Group Manager Marketing & Communications
Todd Dickinson	Group Manager Natural Environment
Michael Keelan	Group Manager Parks, Reserves & Foreshores
Boris Bolgoff	Group Manager Roads, Traffic and Waste
Peter Robinson	Group Manager Strategic Planning
Belinda Noble	Media and Content Manager

NOTES

The meeting commenced at 6:05pm, moved into closed session at 7:58pm, resumed in open session at 9:17pm and concluded at 9:20pm

1.0 APOLOGIES

Nil

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF ORDINARY COUNCIL MEETING HELD 22 SEPTEMBER 2015

209/15 **RESOLVED**

Cr Gobert / Cr Heins

That the Minutes of the Ordinary Council Meeting held 22 September 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 subject to the following amendment to Item 12.2 – Response to Question On Notice No 20/2015 - Funds Received by Council for Seating on The Strand, Dee Why Beach, replacing the response listed in the business papers with the following:

Council received the following revenue for outdoor dining on The Strand, Dee Why, in the 2014/15 financial year:

Chillbar	\$1,620.00
The Thai & Restaurant	\$10,243.84
P & J Crossroads Pty Ltd trading as Aubergine Sydney	\$10,823.68
Avalon Nominees Holdings Pty Ltd trading as Deck 23 Bar	\$9,277.44
Three Waves Pty Ltd trading as Seachange Café	\$7,731.20
Stella Blu Café	\$6,600.00
Lontarn Pty Ltd - trading as On Shore Cafe Brassiere	\$3,297.84
Thr3 Pty Ltd trading as Girdlers Grind	\$8,890.92
Wook Bang & Eun Hwa Choi	\$1,020.76
Wildwater Café and Grill	\$14,882.56
Top Speed Thai Dee Why Pty Ltd trading as Dee Loft	\$15,643.56

VOTING

For the resolution: Crs Daley, De Luca, Giltinan, Gobert, Harrison, Heins, Kerr, 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 Dr Kiril Goring-Sibert asked the following question regarding the BRT proposal and the 24 hour clearway in front of businesses on Pittwater Road, and if Council is going to offer an alternative parking area for patrons of these businesses.**
- 4.2 Mary Gambril made a question in relation to the loss of parking in Manly Vale**
- 4.3 Roslyn Rose made a statement in relation to proposed implementation of clearways on Condamine Street and the consequential lack of parking for customers of business in that area.**
- 4.4 Henry Harding addressed Item 8.3, Report of the Warringah Traffic Committee Meeting held 6 October 2015 - Queenscliff Parking Scheme - Results of Resident Survey.**
- 4.5 Chris Liell-Cock addressed Item 8.3, Report of the Warringah Traffic Committee Meeting held 6 October 2015 - Queenscliff Parking Scheme - Results of Resident Survey.**
- 4.6 Jack Tilburn made a statement/asked the following question regarding (manually insert topic).**
- A. Apart from the Council's Code of Conduct, PART 3, (Version 2013, v.1) which deals with General Conduct 3.1; Fairness and equity, 3.4; for citizens and ratepayers, what are any specific "in-house procedures" for answering letters and complaints from citizens and ratepayers? Are Council staff educated and trained on ethical standards of replying?
 - B. Does the Council adopt a prompt and or quick response time of say: one week, two weeks, or three weeks for both:
 - a. Acknowledgement option; and or
 - b. A serious follow up answer and reply depending on circumstances arising option? and if not, then why not?
 - C. Has the Council investigated any "new policy" in say 2014 or 2015 to take care of all electronic means of communicating back to citizens and ratepayers of any queries/questions and or complaints made via say; internet, email, facebook, facsimile, even letters, even use of telephone? And if not, then why not?
 - D. Does the Council adopt any "in-house procedure and policy" of checking on any communications NOT processed by Council staff; efficiently, economically, and effectively within say one to three weeks timeframe? And if not, why not?
 - E. What is the procedure and process available for any citizen and ratepayer who considers that after say one month or even longer that his or her communication has been (deliberately) seriously overlooked and or forgotten about? Do you write to the mayor and or councillor?
- 4.7 Peter Harley representing Friends of Freshwater addressed Item 10.1, Notice of Motion No 21/2015 - Maintenance of the Park at the Southern Area of Freshwater Beach .**
- 4.8 Gary Hatcher made asked the following questions:**
- 1. Will this Council erect an on-street bin hide on the vacant concrete slab on Oaks Avenue?

2. Will this Council instruct URM to have the smaller URM trucks pick up the Kiosk's waste every day? It is clear that Council spends enough money annually with URM to overcome any issues with URM's internal administration. In fact there is a precedent as the smaller URM trucks have already picked up the Kiosk's waste several times over the past year.
3. Does it take a serious pedestrian accident or a fatality to finally move Warringah Council into action on a satisfactory waste policy for the Kiosk?
4. Will this council extend the presently inadequate loading zone to better accommodate the dozens of commercial vehicles that need to use this loading zone every morning?
5. As we regularly have vehicles parked in the loading zone for up to 8 hours at a time on weekends, will Council instruct the Rangers to patrol the loading zone on the weekends?

4.9 Andrew Marshall made a statement about fox bating in Manly Vale and the detrimental effects this has on the number of bandicoots and the increase in tick numbers.

PROCEDURAL MOTION - ITEMS MOVED BY EXCEPTION

209/15 **RESOLVED**

Cr Regan / Cr Kerr

That the Order of Business be changed so Items 6.1, 6.2, 6.3, 7.2, 8.1, 8.4, 8.5, 8.6, 8.8, 8.9, 13.1, 13.2, 13.3, 13.4, 13.5 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, Kerr, Menano-Pires, Moskal and Regan

Against the resolution: Nil

CARRIED

ITEMS RESOLVED BY EXCEPTION:

6.1 MINUTES OF THE SHOROC INC BOARD MEETING HELD 2 SEPTEMBER 2015

210/15 **RESOLVED**

Cr Regan / Cr Kerr

That the Minutes of the SHOROC Incorporated Board Meeting held 2 September 2015 be noted.

RESOLVED BY EXCEPTION

6.2 MONTHLY FUNDS MANAGEMENT REPORT SEPTEMBER 2015

211/15 **RESOLVED**

Cr Regan / Cr Kerr

That:

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

RESOLVED BY EXCEPTION

6.3 QUARTERLY BUDGET REVIEW STATEMENT SEPTEMBER 2015

212/15 **RESOLVED**

Cr Regan / Cr Kerr

That:

- A. The September 2015 Quarterly Budget Review Statement be noted.
- B. The following changes to the Current Forecast in the September 2015 Quarterly Business Review Statement be approved:
- a. The Surplus from Continuing Operations which includes Capital Grants and Contributions is forecast to increase by \$790,685 to \$18,465,828
 - b. Increase in capital expenditure by \$4,454,256.

RESOLVED BY EXCEPTION

7.2 FEES AND CHARGES FOR WARRINGAH AQUATIC CENTRE

213/15 **RESOLVED**

Cr Regan / Cr Kerr

That Council approve the following Fees and Charges for Warringah Aquatic Centre to enable and encourage flexible access to the facility and its services:

FEE DESCRIPTION	FEES FOR 2015/16
Child Annual Membership – 4-16 years of age Includes access to the centre for casual swimming and other events such as water polo and carnivals	\$636 Based on current percentage discount for Adult casual to Child casual entry
Child Monthly Membership – 4-16 years of age Includes access to the centre for casual swimming and other events such as water polo and carnivals	\$53 Based on Child Annual Membership divided by 12 months
Family Annual Membership – Max. 2 adults and up to 3 children Includes access to the centre for casual swimming, swim-fit for adults and other events such as water polo and carnivals	\$1808 Based on the total value of 2 adults and 3 children minus 50%
Additional Child Membership – 4-16 years of age	\$318 Based on the total value of

<p><i>Sold in conjunction with a Family Annual Membership only</i></p> <p>Includes access to the centre for casual swimming, swim-fit for adults and other events such as water polo and carnivals</p>	<p>a Child Annual Membership minus 50% only available when sold in conjunction with a Family Annual Membership</p>
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RESOLVED BY EXCEPTION

8.1 AMENDMENT TO ANIMAL MANAGEMENT POLICY PL 370

214/15 RESOLVED

Cr Regan / Cr Kerr

That Council endorse the public exhibition of the amended Animal Management Policy PL 370 for 28 days as outlined in this report.

RESOLVED BY EXCEPTION

8.4 RESCINDING WARRINGAH COUNCIL ONSITE SEWAGE MANAGEMENT STRATEGY 2006

215/15 RESOLVED

Cr Regan / Cr Kerr

That Council rescind the Warringah Council Onsite Sewage Management Strategy 2006.

RESOLVED BY EXCEPTION

8.5 PROS AND CONS OF WOOD FIRE HEATERS IN WARRINGAH

216/15 RESOLVED

Cr Regan / Cr Kerr

That Council note the pros and cons of wood fire heaters in Warringah report.

RESOLVED BY EXCEPTION

8.6 DRAFT WATER MANAGEMENT POLICY

217/15 RESOLVED

Cr Regan / Cr Kerr

That Council place the draft Water Management Policy on public exhibition for a period of 28 days

RESOLVED BY EXCEPTION

8.8 PROPOSED RELEASE OF PUBLIC POSITIVE COVENANT - BELROSE WASTE MANAGEMENT CENTRE218/15 **RESOLVED****Cr Regan / Cr Kerr**

That Council refuse the request to release the Public Positive Covenant over the Belrose Waste Management Centre.

RESOLVED BY EXCEPTION**8.9 RETURNS DISCLOSING PECUNIARY INTERESTS OF DESIGNATED PERSONS FOR THE PERIOD 1 JULY 2014 TO 30 JUNE 2015**219/15 **RESOLVED****Cr Regan / Cr Kerr**

That the Disclosure of Pecuniary Interest Returns for designated person for the period 1 July 2014 through to 30 June 2015 be noted.

RESOLVED BY EXCEPTION**13.1 RFT 2015/037 - SUPPLY, IMPLEMENTATION AND MAINTENANCE OF E-LEARNING MANAGEMENT SYSTEM**220/15 **RESOLVED****Cr Regan / Cr Kerr**

That:

- A. Council accepts the tender of IMC Information Multimedia for RFT 2015/037 – Supply, Implementation and Maintenance of e-learning management system for the sum of \$148,800 excluding GST for a five period.
- B. Authority be delegated to the General Manager to execute all necessary documentation to give effect to this resolution.

RESOLVED BY EXCEPTION**13.2 RFT 2015/053 - MECHANICAL SERVICES FOR PASSENGER AND LIGHT COMMERCIAL VEHICLES**221/15 **RESOLVED****Cr Regan / Cr Kerr**

That:

- A. Council accepts the tenders of Mesite Motors, NRMA Motorserve and All Truck Mechanics for RFT 2015/053 - Mechanical Services for Passenger and Light Commercial Vehicles, for period of three years with the option of further two additional periods of 12 months.
- B. Authority be delegated to the General Manager to execute all necessary documentation to

give effect to this resolution.

RESOLVED BY EXCEPTION

13.3 RFT 2015/052 - DEE WHY STORMWATER DRAINAGE UPGRADE WORKS

222/15 RESOLVED

Cr Regan / Cr Kerr

That Council:

- A. declines to accept the single tender received for RFT 2015/052 – Dee Why Stormwater Drainage Upgrade Works;
- B. in accordance with clause 178(3)(e) of the *Local Government (General) Regulation 2005*, enters into negotiations with no less than 3 persons who have the skills and experience to undertake the works and manage the project risks, 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, given that RFT2015/052 has not identified an appropriate contractor and there is an immediate and critical need to obtain the services;
- 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 which is the most advantageous to Council, offers value for money, will deliver a contractor that has the necessary skills and experience to undertake the works and will ensure project risks are appropriately managed; and
- 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

13.4 CONTRACT 2014/003 - PLACE MAKING AND PUBLIC ART FOR THE DEE WHY TOWN CENTRE

223/15 RESOLVED

Cr Regan / Cr Kerr

That Council:

- A. Resolves to enter into a contract with Artscape Consulting (Artscape) which extends Contract Number 2014/003 to include Stage 4 (Production and Installation) of artworks at Walter Gors Park for a lump sum amount as specified in the body of this report, without inviting tenders;
- B. Resolves, pursuant to section 55(3)(i) of the *Local Government Act 1993*, that a satisfactory result would not be achieved by inviting tenders for Stage 4 (Production and Installation) of artworks at Walter Gors Park because of extenuating circumstances by reason of the following:
 - a. Artscape has an intimate knowledge of the project background and is familiar with the issues associated with project;
 - b. Artscape has the experience and expertise to provide the services;

- c. Council previously issued a request for tender in relation to the project and the contract will reflect Artscape's tender response in respect of Stage 4;
 - d. the cost is considered to be fair and provide value for money to Council; and
 - e. Council has an immediate and critical need to obtain the services; and
- C. Delegates to the General Manager, pursuant to section 377(1) of *the Local Government Act 1993*, the authority to exercise all powers of the Council to give effect to the above including execute any documents and approve contract payments up to the amount specified in the body of this report.

RESOLVED BY EXCEPTION**13.5 CHANGE OF INCUMBENT CLEANING CONTRACTOR****224/15 RESOLVED****Cr Regan / Cr Kerr**

That Council:

- A. notes the proposed termination, by mutual agreement, of Council's contracts 2015/001-4 Community Centres and 2015/001-5 Childcare Centres with Quayclean Australia Pty Ltd (ABN 72 990 241 392);
- B. following the termination of the contracts with Quayclean Australia Pty Ltd, enters into the following contracts with AFMR Pty Ltd trading as Solo Services Group (ABN 98 131 694 034) (Solo), without inviting tenders, for an initial period of 36 months with two individual options to extend the term by up to 12 months, not exceeding 24 months in total:
 - a. Community Centres Contract 4 for the sum of \$43,319.66 per annum (excluding GST) Forestville Youth Centre, Forest Community Arts Centre and Library, Forestville Memorial Hall, Forestville Seniors Centre, Forest Youth Centre YoYos and Oxford Falls Peace Park; and
 - b. Childcare Centres Contract 5 for the sum of \$50,015.03 per annum (excluding GST) Belrose Childcare Centre, Dee Why Childcare Centre, Brookvale Childcare Centre, Brookvale Occasional Care Centre and Narrabeen Childcare Centre;
- C. resolves, pursuant to section 55(3)(i) of the *Local Government Act 1993*, that a satisfactory result would not be achieved by inviting tenders because of extenuating circumstances by reason of the following:
 - a. the contract with Quayclean Australia Pty Ltd was entered into following a request for tender process for RFT2015/001, in respect of which Solo was the reserve tenderer;
 - b. Solo has the experience and expertise to provide the services;
 - c. the contract with Solo will generally reflect Solo's tender response in respect of RFT2015/001 subject to a price adjustment due to increased consumable costs;
 - d. the cost is considered to be fair and provide value for money to Council; and
 - e. Council has an immediate and critical need to obtain the services; and
- D. delegates to the General Manager, pursuant to section 377(1) of *the Local Government Act 1993*, the authority to exercise all powers of the Council to give effect to the above including

execute any documents, approve any contract payments and exercise any options to extend the contracts.

RESOLVED BY EXCEPTION

PROCEDURAL MOTION - MOTION OF URGENCY

225/15 RESOLVED

Cr Menano-Pires / Cr De Luca

That as a matter of urgency, Council considers the following motion in relation to Manly Warringah Sea Eagles Limited - 2015 Licence Fees on the basis that it is urgent. The item must be dealt with in closed session and this will be the last item of the agenda.

That:

- A. In an effort to resolve the matter, Council make a “without prejudice” offer to Manly Warringah Sea Eagles Limited in respect of the monies owed to Council for the 2015 National Rugby League season, for the amount set out in the report; and
- B. Council delegate to the General Manager the authority to do all things necessary to give effect to this resolution

VOTING

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

Against the resolution: Nil

CARRIED

NOTE: The Mayor subsequently ruled that the matter was one of urgency and that the item would be dealt with in closed session as the last item of the agenda Item No 13.7

5.0 MAYORAL MINUTES

5.1 MAYORAL MINUTE NO 9/2015 - A.R BLUETT MEMORIAL AWARD

226/15 RESOLVED

Cr Regan

That Council acknowledge and thank Council staff, the Bluett Trustees and the Warringah Community for their contribution to Warringah taking out the 2015 A. R Bluett Award.

VOTING

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

Against the resolution: Nil

CARRIED

5.2 MAYORAL MINUTE NO 10/2015 - NSW LOCAL GOVERNMENT REFORM - COUNCIL AMALGAMATIONS

227/15 RESOLVED

Cr Regan

That Council:

- A. Write to the Mayors and General Managers of Manly and Pittwater Councils with the aim of agreeing to voluntarily merge by the deadline set by the NSW Government.
- B. Continue to undertake communications with our community on Warringah Council's preferred position and update them on the local government reform process.
- C. Write to the NSW Premier and Minister for Local Government stating support for the recommendation as outlined in the IPART Report for one northern beaches council and that Council will be advising the Warringah community of the recommendation.
- D. Note that Warringah Council has just won numerous Local Government and industry awards culminating in the A.R. Bluett Award, the highest honour for any NSW local council.
- E. Note that the threshold criteria for Fit For the Future of 'scale and capacity' for the Northern Beaches is a minimum population of 250,000, as outlined by the ILGRP, and that any option other than one Northern Beaches Council will not pass this critical test as applied by IPART and endorsed by the State Government. (Warringah population currently 150,000 approx. Pittwater and Manly are approx. 100,000 combined. A split is 125,000 which is less than the current Warringah population which was deemed unfit in terms of scale and capacity.
- F. Inform the NSW Government that Warringah Council's support for the amalgamation of Councils on the Northern Beaches is conditional upon the NSW Government proceeding with its Fit for the Future program in a robustly fair and consistent manner across Metropolitan Sydney.
- G. Calls an Extraordinary Council Meeting on the 17th November 2015.

VOTING

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

Against the resolution: Crs Daley, De Luca & Gobert

CARRIED

7.0 COMMUNITY DIVISION REPORTS

7.1 INTERNAL AUDIT ANNUAL REPORT 2014/2015

228/15 RESOLVED

Cr Moskal / Cr Gobert

That Council endorse the Internal Audit Annual Report 2014/2015, including its upload onto Council's website.

Councillor Daley left the chamber at 7:24pm

VOTING

For the resolution: De Luca, Giltinan, Gobert, Harrison, Heins, Kerr, Menano-Pires,

Moskal and Regan

Against the resolution: Nil

CARRIED

NOTE: Councillor Daley was not present for voting on this item.

8.0 Environment Division Reports

8.2 CONDAMINE STREET TREE PLANTING PROJECT

229/15 **RESOLVED**

Cr Harrison / Cr Heins

That Council:

- A. Investigate the cost and feasibility of using potted plants or similar that hang from or are attached to street poles.
- B. Continue to work with NSW Roads and Maritime Services to beautify, with landscaping, the Condamine Street corridor.
- C. Report back to Council at the next ordinary meeting.

Councillor Daley returned to the chamber at 7:26pm

VOTING

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

Against the resolution: Nil

CARRIED

8.3 REPORT OF THE WARRINGAH TRAFFIC COMMITTEE MEETING HELD 6 OCTOBER 2015 - QUEENSCLIFF PARKING SCHEME - RESULTS OF RESIDENT SURVEY

230/15 **RESOLVED**

Cr Menano-Pires / Cr Heins

- A. That Council notes the result of the Queenscliff resident survey.
- B. That this issue be referred back to the traffic committee following conclusion of the local government reform process and results of Manly's review of their residents parking schemes
- C. That Council informs the survey respondents as appropriate

Councillor Gobert left the chamber at 7:34pm and returned to the chamber at 7:35pm

VOTING

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

Against the resolution: Nil

CARRIED

8.7 INCLUSION OF ADDITIONAL LOT INTO PLANNING PROPOSAL TO REZONE PUBLIC CARPARK AT DARLEY STREET AND STARKEY STREET, FORESTVILLE

231/15 **RESOLVED**

Cr Regan / Cr Menano-Pires

That Council:

- A. Approve the incorporation of Lot 18 DP 30880 into a planning proposal to rezone the carpark at Darley Street and Starkey Street, Forestville from RE1 Public Recreation to B2 Local Centre.
- B. Undertake the reclassification of this lot (Lot 18 DP 30880) from 'community land' to 'operational land'.

VOTING

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

Against the resolution: Nil

CARRIED

9.0 NOTICES OF RESCISSION

Nil

10.0 NOTICES OF MOTION

10.1 NOTICE OF MOTION NO 21/2015 - MAINTENANCE OF THE PARK AT THE SOUTHERN AREA OF FRESHWATER BEACH

232/15 **RESOLVED**

Cr Giltinan / Cr Heins

MOTION

That Council give further consideration to retaining play equipment at the southern area of Freshwater Beach due to the large number of residents who use the facilities.

VOTING

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

Against the resolution: Nil

CARRIED

The Mayor, Councillor Regan left the chamber at 7:52pm and the Deputy Mayor, Councillor Harrison took the chair.

10.2 NOTICE OF MOTION NO 22/2015 - WARRINGAH RESIDENT TONY MCAVOY SC233/15 **RESOLVED****Cr De Luca / Cr Harrison****MOTION**

- A. That this Council notes:
- a. Warringah resident, Tony McAvoy has recently become the first Aboriginal person in Australia to be appointed a Senior Counsel.
 - b. Mr McAvoy SC has previously served on the NSW Coastal Council, NSW Heritage Council, acted as a Part Time Commissioner of the Land and Environment Court and an array of other positions.
 - c. Together with his wife, Kathy Ridge, Mr McAvoy has been active on a range of environmental issues in Warringah and also provided pro-bono advice to community groups and leaders.
 - d. Mr McAvoy has had a long term commitment to and worked for the Mum Shirl Foundation which mentors and supports young Aboriginal people on their journey through university and the legal profession.
- B. That this Council congratulates Mr McAvoy on his historic appointment as Senior Counsel and his outstanding contribution to our community.

VOTING

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

Against the resolution: Nil

CARRIED

NOTE: The Mayor was not present for voting on this item.

The Mayor, Councillor Regan returned to the chamber at 7:55pm

NOTE: The Acting General Manager withdrew Item 8.8 Proposed Release of Public Positive Covenant – Belrose Waste Management Centre and Council agreed to resubmit items for resolution by exception.

PROCEDURAL MOTION – RESUBMISSION OF ITEMS MOVED BY EXCEPTION234/15 **RESOLVED****Cr Regan / Cr Menano-Pires**

That the Order of Business be changed so Items 6.1, 6.2, 6.3, 7.2, 8.1,8.4,8.5,8.6, 8.9,13.1,13.2,13.3,13.4,13.5 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, Kerr,

Menano-Pires, Moskal and Regan

Against the resolution: Nil

CARRIED

PROCEDURAL MOTION - SUSPENSION OF CODE OF MEETING PRACTICE

235/15 **RESOLVED**

Cr Regan / Cr Harrison

That Council suspend clause 13.2(ii) of Council's Code of Meeting Practice, to allow the meeting to continue.

VOTING

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

Against the resolution: Nil

CARRIED

11.0 Questions on Notice

11.1 QUESTION ON NOTICE NO 25/2015 - EXPENDITURE ON IMPLEMENTING NEW WARRINGAH LOGO

Question accepted and will be sent to staff for a response.

11.2 QUESTION ON NOTICE NO 26/2015 - COUNCIL'S CAR FLEET

Question accepted and will be sent to staff for a response.

11.3 QUESTION ON NOTICE NO 27/2015 - RESTAURANT PROPOSED FOR DEE WHY SURF LIFE SAVING CLUB

Question accepted and will be sent to staff for a response.

12.0 Responses To Questions On Notice

12.1 RESPONSE TO QUESTION ON NOTICE NO 22/2015 - NUISANCE PROVISIONS OF LEASE - DEE WHY BEACH SHED

Response listed in the business papers.

12.2 RESPONSE TO QUESTION ON NOTICE NO 23/2015 - SEATING AT THE DEE WHY BEACH SHED

Response listed in the business papers.

12.3 RESPONSE TO QUESTION ON NOTICE NO 24/2015 - STAFF PARTICIPATION IN YOUR WARRINGAH POLITICAL PARTY CAUCUSING PRIOR TO COUNCIL MEETINGS

Response listed in the business papers.

Councillor Heins and Councillor Moskal left the chamber at 7:58pm and returned at 7:59pm

13.0 CONFIDENTIAL MATTERS – CLOSED SESSION

NOTE: The meeting moved into closed session at 7:58pm and resumed in open session at 9:17pm

236/15 **RESOLVED**

Cr Regan / Cr Kerr

- 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 RFT 2015/037 - Supply, Implementation and Maintenance of e-Learning Management System 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 acceptance of a tender 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 person who supplied it.
 - b Item 13.2 RFT 2015/053 - Mechanical Services for Passenger and Light Commercial Vehicles 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 RFT2015/ 053 - Mechanical Services for Passenger and Light Commercial Vehicles 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 disclose commercial in confidence information.
 - c Item 13.3 RFT 2015/052 - Dee Why Stormwater Drainage 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]; 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 a confidential tender submission 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 an organisation and offer a commercial advantage to future prospective civil contractors.

- d Item 13.4 Contract 2014/003 - Place Making and Public Art for the Dee Why Town Centre 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 matters which if disclosed in open Council would potentially prejudice the commercial position of the person who supplied their fee structure 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 be detrimental to the commercial position of the company who provided the information.

- e Item 13.5 Change of Incumbent Cleaning Contractor 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 RFT2015/001 - Cleaning Contracts to Warringah Council Properties 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 identify commercial in confidence pricing information.

- f Item 13.6 Mayoral Minute No 11/2015 - Annual Performance Review of the General Manager July 2014 - June 2015 on the basis that it involves the receipt and discussion of personnel matters concerning particular individuals (other than councillors). That, in accordance with the requirements of Section 10 of the Local Government Act 1993 and Council's Code of Meeting Practice this report, RFT 2015/037 – Supply, Implementation and Maintenance of e-Learning Management System, is recommended to be considered in closed session on the basis that it involves the receipt and discussion of:

- (d(i)) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

This report discusses the acceptance of a tender 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 person who supplied it.

- 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, Kerr, Menano-Pires, Moskal and Regan

Against the resolution: Nil

CARRIED

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

14.0 REPORT OF RESOLUTIONS BY EXCEPTION AND IN CLOSED SESSION

13.1 RFT 2015/037 - SUPPLY, IMPLEMENTATION AND MAINTENANCE OF E-LEARNING MANAGEMENT SYSTEM

220/15 **RESOLVED**

Cr Regan / Cr Kerr

That:

- A. Council accepts the tender of IMC Information Multimedia for RFT 2015/037 – Supply, Implementation and Maintenance of e-learning management system for the sum of \$148,800 excluding GST for a five period.
- B. Authority be delegated to the General Manager to execute all necessary documentation to give effect to this resolution.

RESOLVED BY EXCEPTION

13.2 RFT 2015/053 - MECHANICAL SERVICES FOR PASSENGER AND LIGHT COMMERCIAL VEHICLES

221/15 **RESOLVED**

Cr Regan / Cr Kerr

That:

- A. Council accepts the tenders of Mesite Motors, NRMA Motorserve and All Truck Mechanics for RFT 2015/053 - Mechanical Services for Passenger and Light Commercial Vehicles, for period of three years with the option of further two additional periods of 12 months.
- B. Authority be delegated to the General Manager to execute all necessary documentation to give effect to this resolution.

RESOLVED BY EXCEPTION

13.3 RFT 2015/052 - DEE WHY STORMWATER DRAINAGE UPGRADE WORKS

222/15 **RESOLVED**

Cr Regan / Cr Kerr

That Council:

- A. declines to accept the single tender received for RFT 2015/052 – Dee Why Stormwater Drainage Upgrade Works;
- B. in accordance with clause 178(3)(e) of the *Local Government (General) Regulation 2005*, enters into negotiations with no less than 3 persons who have the skills and experience to undertake the works and manage the project risks, 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,

given that RFT2015/052 has not identified an appropriate contractor and there is an immediate and critical need to obtain the services;

- 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 which is the most advantageous to Council, offers value for money, will deliver a contractor that has the necessary skills and experience to undertake the works and will ensure project risks are appropriately managed; and
- 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

13.4 CONTRACT 2014/003 - PLACE MAKING AND PUBLIC ART FOR THE DEE WHY TOWN CENTRE

223/15 RESOLVED

Cr Regan / Cr Kerr

That Council:

- A. Resolves to enter into a contract with Artscape Consulting (Artscape) which extends Contract Number 2014/003 to include Stage 4 (Production and Installation) of artworks at Walter Gors Park for a lump sum amount as specified in the body of this report, without inviting tenders;
- B. Resolves, pursuant to section 55(3)(i) of the *Local Government Act 1993*, that a satisfactory result would not be achieved by inviting tenders for Stage 4 (Production and Installation) of artworks at Walter Gors Park because of extenuating circumstances by reason of the following:
 - a. Artscape has an intimate knowledge of the project background and is familiar with the issues associated with project;
 - b. Artscape has the experience and expertise to provide the services;
 - c. Council previously issued a request for tender in relation to the project and the contract will reflect Artscape's tender response in respect of Stage 4;
 - d. the cost is considered to be fair and provide value for money to Council; and
 - e. Council has an immediate and critical need to obtain the services; and
- C. Delegates to the General Manager, pursuant to section 377(1) of the *Local Government Act 1993*, the authority to exercise all powers of the Council to give effect to the above including execute any documents and approve contract payments up to the amount specified in the body of this report.

RESOLVED BY EXCEPTION

13.5 CHANGE OF INCUMBENT CLEANING CONTRACTOR

224/15 RESOLVED

Cr Regan / Cr Kerr

That Council:

- A. notes the proposed termination, by mutual agreement, of Council's contracts 2015/001-4

Community Centres and 2015/001-5 Childcare Centres with Quayclean Australia Pty Ltd (ABN 72 990 241 392);

- B. following the termination of the contracts with Quayclean Australia Pty Ltd, enters into the following contracts with AFMR Pty Ltd trading as Solo Services Group (ABN 98 131 694 034) (Solo), without inviting tenders, for an initial period of 36 months with two individual options to extend the term by up to 12 months, not exceeding 24 months in total:
- a. Community Centres Contract 4 for the sum of \$43,319.66 per annum (excluding GST) Forestville Youth Centre, Forest Community Arts Centre and Library, Forestville Memorial Hall, Forestville Seniors Centre, Forest Youth Centre YoYos and Oxford Falls Peace Park; and
 - b. Childcare Centres Contract 5 for the sum of \$50,015.03 per annum (excluding GST) Belrose Childcare Centre, Dee Why Childcare Centre, Brookvale Childcare Centre, Brookvale Occasional Care Centre and Narrabeen Childcare Centre;
- C. resolves, pursuant to section 55(3)(i) of the *Local Government Act* 1993, that a satisfactory result would not be achieved by inviting tenders because of extenuating circumstances by reason of the following:
- a. the contract with Quayclean Australia Pty Ltd was entered into following a request for tender process for RFT2015/001, in respect of which Solo was the reserve tenderer;
 - b. Solo has the experience and expertise to provide the services;
 - c. the contract with Solo will generally reflect Solo's tender response in respect of RFT2015/001 subject to a price adjustment due to increased consumable costs;
 - d. the cost is considered to be fair and provide value for money to Council; and
 - e. Council has an immediate and critical need to obtain the services; and
- D. delegates to the General Manager, pursuant to section 377(1) of the *Local Government Act* 1993, the authority to exercise all powers of the Council to give effect to the above including execute any documents, approve any contract payments and exercise any options to extend the contracts.

RESOLVED BY EXCEPTION

13.6 MAYORAL MINUTE NO 11/2015 - ANNUAL PERFORMANCE REVIEW OF THE GENERAL MANAGER JULY 2014 - JUNE 2015

237/15 **RESOLVED**

Cr Regan

That:

- A. The report and outcomes in the Performance Review of the General Manager July 2014 – June 2015 be adopted.
- B. In accordance with clause 7.10 (a) of the General Manger's employment contract, Council send a written report setting out its conclusions to the General Manager advising him of his performance.
- C. Council notes that the Performance Review Panel will review, discuss and agree the General Manager's Performance Plan for 2015-2016 and report back to Council in November 2015.

VOTING

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

Against the resolution: Nil

CARRIED

13.7 MATTER OF URGENCY – MANLY WARRINGAH SEA EAGLES LIMITED – 2015 LICENCE FEES

238/15 **RESOLVED**

Cr Menano-Pires / Cr Heins

That as a matter of urgency, Council considers the following motion in relation to the Manly Warringah Sea Eagles Limited – 2015 Licence Fees

That:

- A. In an effort to resolve the matter, Council make a “without prejudice” offer to Manly Warringah Sea Eagles Limited in respect of the monies owed to Council for the 2015 National Rugby League season, for the amount set out in the report; and
- B. Council delegate to the General Manager the authority to do all things necessary to give effect to this resolution

VOTING

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

Against the resolution: Cr Moskal

CARRIED

The meeting concluded at 9:20pm

This is the final page of the minutes comprising 22 pages numbered 1 to 22 of the Ordinary Council Meeting held on Tuesday 27 October 2015 and confirmed on Tuesday 24 November 2015

Mayor

General Manager