

MINUTES

WARRINGAH COUNCIL MEETING

held at the Civic Centre, Dee Why on

TUESDAY 11 DECEMBER 2012

(2012/14)

warringah.nsw.gov.au



**Minutes of the an Ordinary Meeting of Council
held on Tuesday 11 December 2012
at the Civic Centre, Dee Why
Commencing at 6.02pm**

ATTENDANCE:

Members

Councillors M Regan (Mayor), B Giltinan (Deputy Mayor), P Daley, V De Luca OAM, W Gobert OAM (arrived 6:14pm), R Harrison, S Heins, D Kerr, J Menano-Pires (arrived 6.04pm) and V Moskal (arrived 6:03pm)

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
Anna Moore	Coordinator Governance
Dinesh Mishra	IM&T Support Officer
David Walsh	Chief Financial Officer
Adam Vine	Group Manager Business & Risk
Melodie Whiting	Group Manager Human Resources
Graham Middleton	Group Manager Marketing & Communications
Todd Dickinson	Group Manager Natural Environment
Paul Trigg	Group Manager Procurement, Fleet & Plant
Campbell Pfeiffer	Group Manager Building Property & Spatial Information
Michael Keelan	Group Manager Parks, Reserves & Foreshores
Boris Bolgoff	Group Manager Roads, Traffic and Waste
David Kerr	Group Manager Strategic Planning
Gary Penfold	Group Manager Warringah Aquatic Centre
Belinda Noble	Media and Content Manager

NOTES

The meeting commenced at 6:02pm, moved into closed session at 7:53pm, resumed in open session at 8:28pm and concluded at 8:31pm

1.0 APOLOGIES

Nil

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF ORDINARY MEETING OF COUNCIL HELD 27 NOVEMBER 2012

368/12 **RESOLVED**

Cr Kerr / Cr Harrison

That the Minutes of the Ordinary Meeting of Council held 27 November 2012, copies of which were previously circulated to all Councillors, be confirmed as a true and correct record of the proceedings of that meeting.

VOTING

For the resolution: Crs Regan, Daley, De Luca, Giltinan, Harrison, Heins and Kerr

Against the resolution: Nil

CARRIED

NOTE: Councillors Gobert, Menano-Pires and Moskal were not present for voting on this item

Councillor Moskal arrived at 6:03pm

Councillor Menano-Pires arrived at 6:04pm

3.0 DECLARATION OF PECUNIARY AND CONFLICTS OF INTEREST

Councillor Regan declared a less than significant, non pecuniary interest in relation to Item 8.8, as he is a member of the Dee Why RSL club, a cricketer with the Dee Why RSL club and an active committee member.

Councillor Regan declared a significant, non pecuniary interest in relation to Item 13.6, as his personal and professional relationship with current Deputy Mayor Councillor Giltinan put him in a situation where he felt a conflict of interest. He would take no part in debate or voting on the Item.

Councillor Giltinan declared a pecuniary interest in relation to Item 13.6, as he has been the manager and operator of District Park Tennis for 17 and a half years. He would take no part in debate or voting on the Item.

Councillor Daley declared a significant, non pecuniary interest in relation to Item 13.6 for personal reasons and would take no part in debate or voting on the Item.

Councillor De Luca declared a less than significant, non pecuniary interest in relation to Item 13.6, due to Councillor Giltinan being a colleague at Warringah Council. He stated that he did not feel that any further action is required as his impartiality is not compromised in any way.

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.

PROCEDURAL MOTION - PERMISSION TO ADDRESS COUNCIL

369/12 **RESOLVED**

Cr Regan / Cr Harrison

That all of the 10 members of the public who requested to speak to Council be granted permission to address Council in the Public Forum.

VOTING

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

Against the resolution: Nil

CARRIED

NOTE: Councillor Gobert was not present for voting on this item

- 4.1 Mr Michael Gleeson, representing the North Narrabeen Coalition, addressed Item 8.10, North Narrabeen Beach Reserve and Birdwood Park - Results from Public Exhibition of Draft Landscape Masterplan.**

PROCEDURAL MOTION - EXTENSION OF TIME

Cr De Luca / Cr Kerr

That Mr Gleeson be granted an extension of 3 minutes to address the meeting.

VOTING

For the resolution: Crs Daley, De Luca, Giltinan and Kerr

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

LOST

NOTE: Councillor Gobert was not present for voting on this item

4.2 Mr Jack Tilburn asked the following question regarding Local Government amalgamation.

- a. Will Warringah Council examine the possibility or happening of giving over to Manly Council parts of North Manly and North Balgowlah to help balance the population numbers?
- b. Will Warringah Council also examine the possibility or happening of giving over to Pittwater Council parts of the too large C-ward?
- c. Will Warringah Council pursue a democratic referendum of the citizens and ratepayers in the areas that would change their boundary lines?
- d. Would Warringah Council agree to a referendum majority of 51 per cent by eligible voters to boundary line changes?
- e. Would Warringah Council agree NOT to push for wanting to amalgamate with Pittwater Council as they were permitted to form a break-away separate Pittwater Council in 1992?

Answer:

The Mayor, Michael Regan provided the following response:

Warringah Council is open to ideas and discussion regarding the issue of amalgamation. Around 12 -18 months ago Warringah Council put out a paper on boundary adjustments and amalgamations. It looked further a field to Willoughby, Ku-ring-gai, Hornsby and even Brewarrina councils as potential amalgamations. The State Government is currently undertaking an Independent Local Government review around issues such as boundaries, councils, amalgamations and corporations.

- a. To my knowledge, Manly Council has never approached Warringah Council and there are no resolutions of council. There has been articles and comments in the Manly Daily.
- b. Pittwater Council were not interested in the council paper that suggested possible boundary adjustments and said no to amalgamation.
- c. State Government will make recommendations in March 2013.
- d. Warringah Council will see what the residents say.

Councillor Gobert arrived at 6:14pm

4.3 Dr Conny Harris addressed Item 7.4, Dee Why Community Hub Concept and the Proposed Sale of Site A.**4.4 Dr Richard Michell addressed Item 7.4, Dee Why Community Hub Concept and the Proposed Sale of Site A.**

- 4.5 Mr Tom Kirsop, representing the North Narrabeen Coalition, addressed Item 8.10, North Narrabeen Beach Reserve and Birdwood Park - Results from Public Exhibition of Draft Landscape Masterplan
- 4.6 Mr Geoff Mallinson made a statement regarding upgrading Curl Curl Beach Reserve.
- 4.7 Ms Ann Sharp addressed Item 7.4, Dee Why Community Hub Concept and the Proposed Sale of Site A.
- 4.8 Mr Jeremy Raper, representing the North Narrabeen Boardriders Club, addressed Item 8.10, North Narrabeen Beach Reserve and Birdwood Park - Results from Public Exhibition of Draft Landscape Masterplan.
- 4.9 Mr Don Norris, representing Surfrider Foundation, addressed Item 8.10, North Narrabeen Beach Reserve and Birdwood Park - Results from Public Exhibition of Draft Landscape Masterplan.

Councillor Menano-Pires left the chamber at 6:34pm

Councillor Menano-Pires returned to the chamber at 6:35pm

- 4.10 Mr Kevin Begaud, representing Warringah Catholic Parish, addressed Item 7.4, Dee Why Community Hub Concept and the Proposed Sale of Site A.

PROCEDURAL MOTION - EXTENSION OF TIME

370/12 **RESOLVED**

Cr De Luca / Cr Daley

That Mr Begaud be granted an extension of 3 minutes to address the meeting.

VOTING

For the resolution: Crs Daley, De Luca, Giltinan, Heins and Kerr

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

There being an equal number of votes, the Mayor used his casting vote for the motion, which was declared CARRIED

PROCEDURAL MOTION - ITEMS MOVED BY EXCEPTION**371/12 RESOLVED*****Cr Regan / Cr Harrison***

That the Order of Business be changed so Items 6.1, 7.2, 7.3, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.11, 8.12, 13.2, 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 Regan, Daley, De Luca, Giltinan, Gobert, Harrison, Heins, Kerr, Menano-Pires and Moskal

Against the resolution: Nil

CARRIED**ITEMS RESOLVED BY EXCEPTION:****6.1 BAD DEBT WRITE OFF****372/12 RESOLVED*****Cr Regan / Cr Harrison***

That Council resolves to write off the sum of \$36,672.68 owed by Messrs Shamsul Kazi and Mohammed Osman Goni.

RESOLVED BY EXCEPTION**7.2 JOHN FISHER PARK, STIRGESS AVENUE, CURL CURL - PROPOSED DRAINAGE EASEMENT IN FAVOUR OF 27 STIRGESS AVENUE, CURL CURL****373/12 RESOLVED*****Cr Regan / Cr Harrison***

That

- A. Subject to Item C, Council authorise a 1 metre by 4 metre easement to drain water and associated Positive Covenant, by underground pipe within Lot B DP 396843 John Fisher Park Curl Curl in favour of 27 Stirgess Avenue Curl Curl for an amount assessed by an independent qualified valuer.
- B. 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. 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

7.3 CAPITAL ALLOCATION FOR THE COMPLETION OF THE LONG REEF SPORTING AMENITIES BUILDING**374/12 RESOLVED*****Cr Regan / Cr Harrison***

That Council approve the re-allocation of capital funds to the value of \$110,000 stated in Option 2, as listed below, within the existing 2012 / 2013 Capital Works budget envelope to allow the finalisation of the Long Reef Sporting Amenities Building.

Option 2:

Council commits to the completion of the public amenities which include male, female and disabled toilets and to bringing the rest of the community sporting facilities to lock up stage. This will then be handed over to the Collaroy Rugby Club to finalise the fit out the interior of the sporting areas.

Cost estimate - \$110,000

RESOLVED BY EXCEPTION**8.2 DELEGATED AUTHORITY TO THE MAYOR – CHRISTMAS NEW YEAR RECESS 2012/ 2013****375/12 RESOLVED*****Cr Regan / Cr Harrison***

That, pursuant to, and subject to the limitations of Section 377 of the Local Government Act, authority is hereby granted to the Mayor to make such decisions and authorise work as provided by Policy GOV-PL125 during the 2012/ 2013 Christmas New Year recess being 12 December 2012 to 11 February 2013 inclusive.

RESOLVED BY EXCEPTION**8.3 ADOPTION OF GOV-PL 120 PAYMENT AND RE-IMBURSEMENT OF EXPENSES INCURRED BY, AND PROVISION OF FACILITIES TO, THE MAYOR, DEPUTY MAYOR AND COUNCILLORS - ANNUAL REVIEW****376/12 RESOLVED*****Cr Regan / Cr Harrison***

That the amended GOV-PL 120 Policy for Payment and Re-imbursement of Expenses Incurred by, and Provision of Facilities to The Mayor, Deputy Mayor and Councillors be adopted.

RESOLVED BY EXCEPTION

8.4 REPORTING OF STRATEGIC REFERENCE GROUP MINUTES**377/12 RESOLVED*****Cr Regan / Cr Harrison***

That the notes of meeting and draft minutes of the Strategic Reference Group meetings held on 14 and 26 November 2012 be noted.

RESOLVED BY EXCEPTION**8.5 TEMPORARY AMENDMENT TO QUORUM REQUIREMENTS FOR STRATEGIC REFERENCE GROUP MEETINGS****378/12 RESOLVED*****Cr Regan / Cr Harrison***

That until September 2013 the quorum requirements for the Strategic Reference Groups be amended to be a majority of members excluding vacant positions.

RESOLVED BY EXCEPTION**8.6 HERITAGE PLAQUES POLICY****379/12 RESOLVED*****Cr Regan / Cr Harrison***

That

- A. The Heritage Plaques Policy and associated implementation guidelines be prepared and if appropriate, incorporated into Council's existing Warringah Memorials and Plaques Policy (March 2002). The resulting policy is to be reported to Council for adoption at the completion of this project.
- B. Council be furnished with a short report on the development of a Warringah Walks, Rides and/or Drives Project. This report will include the project scope, timing and cost of the development and implementation of such a project for Council consideration.

RESOLVED BY EXCEPTION**8.7 PLANNING PROPOSAL FOR 638 PITTWATER ROAD, BROOKVALE****380/12 RESOLVED*****Cr Regan / Cr Harrison***

That Council forward the attached planning proposal relating to 638 Pittwater Road, Brookvale for gazettal pursuant to Section 59 of the Environmental Planning and Assessment Act, 1979, incorporating the following amendments:

- A. rezone part of Lot 1, DP 1001963, 638 Pittwater Road Brookvale from IN1 General Industrial

to B5 Business Development

- B. extend Schedule 1 Additional Permitted Uses of WLEP 2011 to apply to the whole of Lot 1, DP 1001963, 638 Pittwater Road Brookvale
- C. rezone the southern part of Charlton Lane from IN1 General Industrial to B5 Business Development
- D. extend Schedule 1 Additional Permitted Uses of WLEP 2011 to apply to the southern part of Charlton Lane, and
- E. amend the Land Use Zoning Map and the Additional Permitted Uses Map accordingly.

RESOLVED BY EXCEPTION

8.8 AMENDMENT OF WARRINGAH DEVELOPMENT CONTROL PLAN

381/12 **RESOLVED**

Cr Regan / Cr Harrison

That Council:

- A. Pursuant to section 18 of the *Environmental Planning and Assessment Regulation 2000*, place the draft Development Control Plan that includes amendments for end of trip bicycle facilities and the Dee Why RSL Master Plan on public exhibition for a period of at least 28 days and invite submissions from the public.
- B. Following the public exhibition, give further consideration to the draft DCP and any submissions made thereto.

RESOLVED BY EXCEPTION

8.11 ST MATTHEWS FARM RESERVE - RESULTS OF PUBLIC EXHIBITION OF DRAFT LANDSCAPE MASTERPLAN

382/12 **RESOLVED**

Cr Regan / Cr Harrison

That the St Matthews Farm Reserve Landscape Masterplan be adopted.

RESOLVED BY EXCEPTION

8.12 KEEPING ANIMALS IN WARRINGAH POLICY

383/12 **RESOLVED**

Cr Regan / Cr Harrison

That the draft policy for Keeping Animals in Warringah be placed on public exhibition for a minimum of 30 days.

RESOLVED BY EXCEPTION

13.2 KIMBRIKI PROJECT FUNDING384/12 **RESOLVED*****Cr Regan / Cr Harrison***

That Council support:

- A. further investigation into the potential investment in infrastructure at the Kimbriki Landfill site owned by Council.
- B. an application to the Division of Local Government to seek LIRS funding for the reconstruction of access roads at Kimbriki to service the site to meet planning approvals prior to the closure of the Belrose landfill site.

RESOLVED BY EXCEPTION**13.4 RFT 2012/071 - MILLERS RESERVE LIGHTING UPGRADE**385/12 **RESOLVED*****Cr Regan / Cr Harrison***

That

- A. Council accepts the tender of SMADA Electrical Services Pty Ltd for RFT 2012/071 – Millers Reserve Sportsfield lighting Upgrade for the sum of \$292,160 excluding GST.
- A. The General Manager be delegated authority to negotiate and enter into a contract with SMADA Electrical Services Pty Ltd and to approve contract variations up to the amount of \$336,000 which includes a 15% contingency of \$43,840.

RESOLVED BY EXCEPTION**13.5 RFT 2012/055 SHOROC PLANT HIRE SERVICES PANEL**386/12 **RESOLVED*****Cr Regan / Cr Harrison***

- A. That Council rejects all tender for RFT 2012/055 - SHOROC Dry Hire Plant Hire Service Panel (hire without operator) Panel in accordance with subclause 178 (1)(b) of the *Local Government (General) Regulation 2005*.

A SHOROC Tender for dry plant hire service will be re-issued early 2013.
- B. That Council accepts the appointment of the following panel of service providers for SHOROC RFT 2012/055 - Wet Plant Hire Services (hire with operator), for period of three (3) years with the option of further two (2) additional periods of twelve (12) months, based on satisfactory performance in accordance with of subclause 178 (1)(a) of the *Local Government (General) Regulation 2005*.

This appointment will be subjected to the provision of evidence of WHS work documents

Tenderer	Sub Panel Number and Services
Acclaimed Excavations P/L	Sub-Panel 1 – Excavators Sub-Panel 2 – Backhoes Sub Panel 3 – Loaders Sub Panel 4 – Trucks Sub Panel 5 – Bobcats Sub Panel 7 – Track Dozers Sub Panel 9 – Graders Sub Panel 11 – Road Sweeping Plant Sub panel 13 – Water cart
Action Recovery Services P/L. T/As Action Cranes	Sub Panel 6 – Mobile Cranes
Aldo's Earthworks P/L	Sub-Panel 1 – Excavators Sub Panel 4 – Trucks Sub Panel 5 – Bobcats
Aqua Assets P/L	Sub panel 14 - Other
Davis Earthmoving & Quarrying P/L	Sub-Panel 1 – Excavators Sub Panel 3 – Loaders Sub Panel 4 – Trucks Sub Panel 6 – Mobile Cranes Sub Panel 7 – Track Dozers Sub Panel 9 – Graders Sub panel 13 – Water cart Sub panel 14 – Other
J&B Murphy P/L	Sub-Panel 1 - Excavators Sub Panel 4 – Trucks Sub Panel 5 – Bobcats Sub Panel 8 – Roller Compactions
Ken Coles Excavations P/L	Sub-Panel 1 – Excavators Sub-Panel 2 – Backhoes Sub Panel 3 – Loaders Sub Panel 4 – Trucks Sub Panel 5 – Bobcats Sub Panel 7 – Track Dozers Sub Panel 8 – Roller Compactions Sub Panel 9 – Graders Sub Panel 11 – Road Sweeping Plant Sub panel 13 – Water cart
Len Hughes Earthmoving P/L	Sub-Panel 2 – Backhoes Sub Panel 4 – Trucks Sub panel 14 – Other
Mathews Contracting P/L	Sub-Panel 1 – Excavators Sub Panel 4 – Trucks
Specialised Pavement Services P/L	Sub-Panel 1 – Excavators

Raygal P/L	Sub-Panel 1 – Excavators Sub-Panel 2 – Backhoes Sub Panel 4 – Trucks Sub Panel 5 – Bobcats Sub Panel 11 – Road Sweeping Plant Sub Panel 12 – Sullage Collection Sub panel 13 – Water cart
Transpacific Industrial Solutions P/L	Sub Panel 12 – Sullage Collection Sub panel 14 – Other

RESOLVED BY EXCEPTION

5.0 MAYORAL MINUTES

5.1 MAYORAL MINUTE NO 14/2012 AUSTRALIA DAY 2013 – ALCOHOL PROHIBITED AREAS ON WARRINGAH OCEAN BEACHES

387/12 **RESOLVED**

Cr Regan

That

- A. Council declares Alcohol Prohibited Areas on the sand areas of all Warringah beaches from 6am on Saturday 26 January 2013 to 6am on Sunday 27 January 2013
- B. Council staff work with neighbouring Councils to ensure consistency in the message to the public and to minimise the cost to Council of advertising the new arrangements
- C. Funds be made available from existing operational budgets

VOTING

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

Against the resolution: Cr Gobert

CARRIED

7.0 COMMUNITY DIVISION REPORTS

7.1 PROPOSED ROAD CLOSURE AND SALE OF COUNCIL LAND - PART PATEY STREET, DEE WHY

388/12 **RESOLVED**

Cr Heins / Cr Regan

That

- A. Council authorise an application to the Department of Primary Industries for road closure under the provisions of the Roads Act 1993 for the road identified in this report being part Patey Street, Dee Why adjacent to Delmar Private Hospital, subject to Council retaining a suitable Right of Carriageway over part of the subject land to enable Council and its authorised users to travel over the land.
- B. Delegation be granted to the General Manager to authorise and execute any documentation required to facilitate any of the actions contained within this recommendation or Council authorise affixing its Seal to the documentation if required.
- C. Should the road closure application referred to in item A of this recommendation be successful, Council, in accordance with its Disposal of Surplus Road Reserve Policy GOV-PL 820 and Property Acquisition and Disposal – (Negotiation on Purchase Price) Policy GOV – PL 810 proceed to dispose of the subject land.
- D. That the proceeds from the sale be used to construct additional new footpaths to reduce the backlog and Councillors to receive a report on the locations of the additional footpaths via memo when determined.

VOTING

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

Against the resolution: Nil

CARRIED

7.4 DEE WHY COMMUNITY HUB CONCEPT AND THE PROPOSED SALE OF SITE A.

Cr Regan / Cr Menano-Pires

That:

- A. Council endorses the concept of the Dee Why Community Hub on the north west corner of St Davids Ave and Pittwater Road
- B. \$150,000 be moved from the Brookvale Occasional Care centre capital budget to fund design work on the Community Hub concept in current financial year.
- C. Council re-authorise the sale of its property at 36-44 Oaks Avenue and 31-35 Howard Avenue, Dee Why being Lots 17-19 and Lots 44-46 Section 16 DP 8172, Lot 43 DP 341020 and Lot 2 DP 526306 as per the previous resolution to sell adopted by Council on 22 July 2008, and allocate the funds received to the Community Hub concept
- D. Council, in accordance with its Property Acquisition and Disposal – (Negotiation on Purchase Price) Policy GOV – PL 810:
 - a. Proceed to dispose of the land referred to in Item C.
 - b. Grant delegation to the General Manager to commence the disposal process of the land in Item A by public Expression of Interest (EOI). Following assessment of the EOI one of the following strategies may be adopted:
 - i. Issue of a restricted RFT, under tender box conditions, to a short-listed group of

respondents to this EOI or list for sale by Public Auction;

- ii. Issue of an open RFT;
- iii. Enter into direct negotiations; or
- iv. To not proceed any further. Note: An appropriate reserve price will be set by Warringah Council.

E. Delegation be granted to the General Manager to authorise and execute any documentation required to facilitate the sale of council land in Site A and authorise affixing the Council Seal to the documentation if required.

F. Council notes that

- a any future development on Site A will generate more publicly available parking than is currently available on the site and that a requirement for more than 200 publicly available parking spaces will be included as part of the sale contract.
- b the adjacent Brookfield site will generate in excess of 1500 parking spaces.

AMENDMENT

Cr De Luca / Cr Giltinan

That in view of community concerns raised this evening, the thousands strong petitions against the sale and that the Masterplan is yet to go on public exhibition that the matter be deferred until February's Council Meeting during which time Council undertake a community consultation program in accordance with its established policies.

VOTING

For the amendment: Crs De Luca, Kerr and Giltinan

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

LOST

NOTE: With the permission of the Mover and Seconded the original motion was amended to insert a new point F.

389/12 RESOLVED

Cr Regan / Cr Menano-Pires

That:

- A. Council endorses the concept of the Dee Why Community Hub on the north west corner of St Davids Ave and Pittwater Road
- B. \$150,000 be moved from the Brookvale Occasional Care centre capital budget to fund design work on the Community Hub concept in current financial year.
- C. Council re-authorise the sale of its property at 36-44 Oaks Avenue and 31-35 Howard Avenue, Dee Why being Lots 17-19 and Lots 44-46 Section 16 DP 8172, Lot 43 DP 341020 and Lot 2 DP 526306 as per the previous resolution to sell adopted by Council on 22 July

2008, and allocate the funds received to the Community Hub concept

- D. Council, in accordance with its Property Acquisition and Disposal – (Negotiation on Purchase Price) Policy GOV – PL 810:
- a. Proceed to dispose of the land referred to in Item C.
 - b. Grant delegation to the General Manager to commence the disposal process of the land in Item A by public Expression of Interest (EOI). Following assessment of the EOI one of the following strategies may be adopted:
 - i. Issue of a restricted RFT, under tender box conditions, to a short-listed group of respondents to this EOI or list for sale by Public Auction;
 - ii. Issue of an open RFT;
 - iii. Enter into direct negotiations; or
 - iv. To not proceed any further. Note: An appropriate reserve price will be set by Warringah Council.
- E. Delegation be granted to the General Manager to authorise and execute any documentation required to facilitate the sale of council land in Site A and authorise affixing the Council Seal to the documentation if required.
- F. Any such offer be reported back to the elected Council for determination.
- G Council notes that
- a any future development on Site A will generate more publicly available parking than is currently available on the site and that a requirement for more than 200 publicly available parking spaces will be included as part of the sale contract.
 - b the adjacent Brookfield site will generate in excess of 1500 parking spaces.

VOTING

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

Against the resolution: Cr De Luca

CARRIED

8.0 ENVIRONMENT DIVISION REPORTS

8.1 COUNCILLOR ATTENDANCE - BREWARRINA 150 YEAR CELEBRATIONS

390/12 **RESOLVED**

Cr Daley / Cr Regan

That:

- A. Council nominates Councillors Gobert, Heins, Moskal and Regan to attend the sesquicentenary (150 year) celebrations in Brewarrina Shire in April 2013.

- B. Funding be made available for Councillor attendance from the existing Governance budget.

VOTING

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

Against the resolution: Nil

CARRIED

8.9 WARRINGAH SUBMISSION ON THE REVIEW OF THE LOCAL GOVERNMENT ACT***Cr Menano-Pires / Cr Regan***

That:

- A Item 1 of Governance (Councillor Accountability for Performance) be deleted from the submission as it is a fundamental principle of democracy that no elected official can be dismissed during his/her term of office for reasons other than criminal conduct or serious breaches of Code of Conduct.
- B The submission to the Local Government Acts Taskforce excluding Item 1 – Governance be endorsed.

AMENDMENT***Cr De Luca***

That:

- A Item 1 of Governance (Councillor Accountability for Performance) be deleted from the submission as it is a fundamental principle of democracy that no elected official can be dismissed during his/her term of office for reasons other than criminal conduct or serious breaches of Code of Conduct.
- B The submission excluding Item 1 of Governance be endorsed.
- C That a salary scale similar to Categories in the NSW Public Service and Federal Public Service and the Independent Tribunals appointed to set salaries for Councillors and Members of Parliament be introduced.

NOTE: The amendment lapsed for want of a seconder

391/12 RESOLVED***Cr Menano-Pires / Cr Regan***

That:

- A Item 1 of Governance (Councillor Accountability for Performance) be deleted from the submission as it is a fundamental principle of democracy that no elected official can be dismissed during his/her term of office for reasons other than criminal conduct or serious breaches of Code of Conduct.
- B The submission to the Local Government Acts Taskforce excluding Item 1 of Governance be

endorsed.

VOTING

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

Against the resolution: Cr De Luca

CARRIED

8.10 NORTH NARRABEEN BEACH RESERVE AND BIRDWOOD PARK - RESULTS FROM PUBLIC EXHIBITION OF DRAFT LANDSCAPE MASTERPLAN

Cr De Luca / Cr Gobert

That

- A. Council adopts the revised Masterplan for the North Narrabeen Beach Reserve and Birdwood Park and that areas labelled 1, 2 and 3 in the masterplan be considered in plans for re-profiling the Birdwood Dune.
- B. That staff prepare a further report to Council identifying cost estimates and staging of the proposed works.

Councillor Giltinan left the chamber at 7:35pm

Councillor Giltinan returned to the chamber at 7:36pm

AMENDMENT

Cr Regan / Cr Harrison

- A. That Council adopts the revised Masterplan for the North Narrabeen Beach Reserve and Birdwood Park.
- B. That staff prepare a further report to Council identifying cost estimates and staging of the proposed works.
- C. That should areas 2 and 3 become a priority to our community, that Council, its SRG's and relevant Community Committees consider such recommendations from those formal reports and requests.

VOTING

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

Against the amendment: Cr De Luca

The amendment was CARRIED and became the substantive motion

392/12 RESOLVED**Cr Regan / Cr Harrison**

- A. That Council adopts the revised Masterplan for the North Narrabeen Beach Reserve and Birdwood Park.
- B. That staff prepare a further report to Council identifying cost estimates and staging of the proposed works.
- C. That should areas 2 and 3 become of a priority to our community that Council, it's SRG's and relevant Community Committees consider such recommendations from those formal reports and requests.

VOTING

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

Against the resolution: Cr De Luca

CARRIED**13.0 CONFIDENTIAL MATTERS – CLOSED SESSION**

Councillor Harrison left the chamber at 7:50pm

393/12 RESOLVED**Cr Regan / Cr Gobert**

- 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 13.1 Mayoral Minute No 13/2012
Annual Performance Review of the General Manager July 2011 - June 2012
- Item 13.3 Dee Why Town Centre Masterplan Progress Report December 2012
- Item 13.6 District Park Tennis Complex - Business Case

Matters to be Discussed During Closed Session - Section 10D

- Item 13.1 Mayoral Minute No 13/2012
Annual Performance Review of the General Manager July 2011 - June 2012
- Item 13.3 Dee Why Town Centre Masterplan Progress Report December 2012
- Item 13.6 District Park Tennis Complex - Business Case

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

- Item 13.1 10A(2)(a) personnel matters concerning particular individuals (other than councillors)

- Item 13.3 10A(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
- Item 13.6 10A(2)(c) 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)(d(ii)) commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the council
- 10A(2)(d(iii)) commercial information of a confidential nature that would, if disclosed, reveal a trade secret

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

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

- B. 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.
- C. 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.
- D. 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).
- E. 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 Regan, Daley, De Luca, Giltinan, Gobert, Heins, Kerr, Menano-Pires and Moskal

Against the resolution: Nil

CARRIED

NOTE: Councillor Harrison was not present for voting on this item

Councillor Harrison returned to the chamber at 7:52pm

Councillor De Luca left the chamber at 7:52pm

The meeting moved into closed session at 7:52pm

The meeting resumed in open session at 8:28pm

NOTE: The Deputy General Manager Environment reported the resolutions on confidential matters dealt with by exception and those passed in closed session

14.0 REPORT OF RESOLUTIONS PASSED IN CLOSED SESSION

13.1 MAYORAL MINUTE NO 13/2012 ANNUAL PERFORMANCE REVIEW OF THE GENERAL MANAGER JULY 2011 - JUNE 2012

394/12 **RESOLVED**

Cr Regan

- A. That the report and outcomes in the Performance Review of the General Manager July 2011 – June 2012 be adopted.
- B. That the Mayor and General Manager sign the report to conclude the process.
- C. That Council notes and adopts the General Manager's performance plan for 2012/2013.

VOTING

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

Against the resolution: Nil

CARRIED

NOTE: Councillor De Luca was not present for voting on this item

13.7 MAYORAL MINUTE NO 15/2012 RENEWAL OF CONTRACT OF THE GENERAL MANAGER

Report not circulated with agenda

395/12 **RESOLVED**

Cr Regan

That Council resolves:

- A. To renew the General Manager's Contract of Employment to 31 December 2016
- B. That the anniversary date for the General Manager's Statutory and Other Officers Remuneration Tribunal increase shall remain as his original anniversary date of 15th March.

VOTING

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

Against the resolution: Nil

CARRIED

NOTE: Councillor De Luca was not present for voting on this item

13.2 KIMBRIKI PROJECT FUNDING

384/12 **RESOLVED**

Cr Regan / Cr Harrison

That Council support:

- A. further investigation into the potential investment in infrastructure at the Kimbriki Landfill site owned by Council.
- B. an application to the Division of Local Government to seek LIRS funding for the reconstruction of access roads at Kimbriki to service the site to meet planning approvals prior to the closure of the Belrose landfill site.

RESOLVED BY EXCEPTION

13.3 DEE WHY TOWN CENTRE MASTERPLAN PROGRESS REPORT DECEMBER 2012

397/12 **RESOLVED**

Cr Gobert / Cr Regan

That

- A. Council endorses the draft Masterplan for Dee Why Town Centre for the purposes of community engagement.
- B. Following completion of community engagement, the results, submissions and draft plan be reported to Council for final determination.
- C. Council acknowledge the time and effort of the members of the Dee Why Town Centre Working Party and thank them for their contribution.
- D. Staff prepare a report and a draft policy which details appropriate measures to ensure financial sustainability and best practice financial planning principles to support Council funding options for infrastructure projects such as borrowings.

VOTING

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

Against the resolution: Nil

CARRIED

13.4 RFT 2012/071 - MILLERS RESERVE LIGHTING UPGRADE
385/12 RESOLVED
Cr Regan / Cr Harrison

That

- A. Council accepts the tender of SMADA Electrical Services Pty Ltd for RFT 2012/071 – Millers Reserve Sportsfield lighting Upgrade for the sum of \$292,160 excluding GST.
- B. The General Manager be delegated authority to negotiate and enter into a contract with SMADA Electrical Services Pty Ltd and to approve contract variations up to the amount of \$336,000 which includes a 15% contingency of \$43,840.

RESOLVED BY EXCEPTION
13.5 RFT 2012/055 SHOROC PLANT HIRE SERVICES PANEL
386/12 RESOLVED
Cr Regan / Cr Harrison

- A. That Council rejects all tender for RFT 2012/055 - SHOROC Dry Hire Plant Hire Service Panel (hire without operator) Panel in accordance with subclause 178 (1)(b) of the *Local Government (General) Regulation 2005*.

A SHOROC Tender for dry plant hire service will be re-issued early 2013.

- B. That Council accepts the appointment of the following panel of service providers for SHOROC RFT 2012/055 - Wet Plant Hire Services (hire with operator), for period of three (3) years with the option of further two (2) additional periods of twelve (12) months, based on satisfactory performance in accordance with of subclause 178 (1)(a) of the *Local Government (General) Regulation 2005*.

This appointment will be subjected to the provision of evidence of WHS work documents

Tenderer	Sub Panel Number and Services
Acclaimed Excavations P/L	Sub-Panel 1 – Excavators Sub-Panel 2 – Backhoes Sub Panel 3 – Loaders Sub Panel 4 – Trucks Sub Panel 5 – Bobcats Sub Panel 7 – Track Dozers Sub Panel 9 – Graders Sub Panel 11 – Road Sweeping Plant Sub panel 13 – Water cart
Action Recovery Services P/L. T/As Action Cranes	Sub Panel 6 – Mobile Cranes
Aldo's Earthworks P/L	Sub-Panel 1 – Excavators Sub Panel 4 – Trucks Sub Panel 5 – Bobcats
Aqua Assets P/L	Sub panel 14 - Other

Davis Earthmoving & Quarrying P/L	Sub-Panel 1 – Excavators Sub Panel 3 – Loaders Sub Panel 4 – Trucks Sub Panel 6 – Mobile Cranes Sub Panel 7 – Track Dozers Sub Panel 9 – Graders Sub panel 13 – Water cart Sub panel 14 – Other
J&B Murphy P/L	Sub-Panel 1 - Excavators Sub Panel 4 – Trucks Sub Panel 5 – Bobcats Sub Panel 8 – Roller Compactions
Ken Coles Excavations P/L	Sub-Panel 1 – Excavators Sub-Panel 2 – Backhoes Sub Panel 3 – Loaders Sub Panel 4 – Trucks Sub Panel 5 – Bobcats Sub Panel 7 – Track Dozers Sub Panel 8 – Roller Compactions Sub Panel 9 – Graders Sub Panel 11 – Road Sweeping Plant Sub panel 13 – Water cart
Len Hughes Earthmoving P/L	Sub-Panel 2 – Backhoes Sub Panel 4 – Trucks Sub panel 14 – Other
Mathews Contracting P/L	Sub-Panel 1 – Excavators Sub Panel 4 – Trucks
Specialised Pavement Services P/L	Sub-Panel 1 – Excavators
Raygal P/L	Sub-Panel 1 – Excavators Sub-Panel 2 – Backhoes Sub Panel 4 – Trucks Sub Panel 5 – Bobcats Sub Panel 11 – Road Sweeping Plant Sub Panel 12 – Sullage Collection Sub panel 13 – Water cart
Transpacific Industrial Solutions P/L	Sub Panel 12 – Sullage Collection Sub panel 14 – Other

RESOLVED BY EXCEPTION

13.6 DISTRICT PARK TENNIS COMPLEX - BUSINESS CASE398/12 **RESOLVED*****Cr Menano-Pires / Cr Heins***

That Council:

- A. Offer management of the Complex's facilities to the market under licence agreement/s for a period of up to three years.
- This will include Council assuming responsibility for all maintenance at the Complex for the life of the licence, including any urgent compliance works, but not providing any further investment due to the uncertain future of the Complex.
- B. Commence a new Request For Tender (RFT) process for the licence/s, to start as soon as possible, and with a report back to Council no later than March 2013. The RFT shall include:
- a. A mandatory requirement that any submission for the entire Complex management provide an annual rental return to Council of at least \$100,000.00 ex GST, plus 3% of NET turnover over \$100K, subject to CPI.
 - b. A mandatory requirement that any submission be accompanied by a business case that confirms it is financially sustainable.
 - c. That audited books be presented each year.
 - d. That if a loss is made in 6 months in a row then parties come together to review the arrangements.
 - e. That if after 18 months the licensee is not operating to a standard that council considers acceptable (less than \$100k pa) then Council can exercise its rights to terminate the license.
- C. Extend the agreement with the existing lessee for the Complex to 31 May 2013 to allow sufficient transition.
- D. Note that should any sitting Warringah Councillor submit a tender response in relation to the Complex, an independent evaluation and recommendation panel will be established to make an unbiased and informed recommendation of the preferred tenderer/s. This independent process is to be determined in consultation with Council's Internal Ombudsman.
- E. Give priority to commencing the review of the District Park Plan of Management (as listed in the 2012 Strategic Community Plan), and ensure it is brought back to Council for adoption no later than December 2015.
- F. Resolve that if the new RFT process does not receive any submissions that meet the mandatory requirements, then delegate to the Deputy General Manager Community the authority to take over complete financial and operational management of all facilities associated with the District Park Tennis Complex. This will include:
- a. Resourcing with appropriate operational staff, and reporting to the Group Manager Warringah Aquatic Centre.
 - b. Seeking to maximise community benefit at the Complex through promoting and delivering innovative and cost-effective sporting and recreation programs such as (but not limited to) tennis, squash, 5-a-side soccer, personal training, basketball and netball.
 - c. Actively working with local community and sporting groups - and other larger organisations such as Tennis Australia - to attract enthusiastic casual and volunteer workers.

VOTING

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

Against the resolution: Nil

CARRIED

NOTE: Councillors Daley, Giltinan and Regan were not present for voting on this item

The meeting concluded at 8:31pm

This is the final page of the Minutes comprising 26 pages numbered 1 to 26 of meeting 2012/14 of Warringah Council held on 11 December 2012 and confirmed on 13 February 2013.

Mayor

General Manager