

MINUTES

WARRINGAH COUNCIL MEETING

held at the Civic Centre, Dee Why on

TUESDAY 22 MAY 2012

(2012/06)

warringah.nsw.gov.au



Minutes of an Ordinary Meeting of Council**held on Tuesday 22 May 2012****at the Civic Centre, Dee Why****Commencing at 6:01pm****ATTENDANCE:****Members**

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

Officers

Rik Hart	General Manager
John Warburton	Deputy General Manager Community
Malcolm Ryan	Deputy General Manager Environment
Vivienne Ingram	Corporate Lawyer
Melissa Lee	Governance Manager
Anna Moore	Coordinator Governance
Ximena Von Oven	Administration Officer Governance
Dinesh Mishra	IM&T Support Officer
David Walsh	Chief Financial Officer
Peter Bell	Group Manager Customer Support & Library Services
Graham Middleton	Group Manager Marketing & Communications
Todd Dickinson	Group Manager Natural Environment
Don McQueen	A/Group Manager Building Property & Spatial Information
Michael Keelan	Group Manager Parks, Reserves & Foreshores
David Kerr	Group Manager Strategic Planning
Colin Windlebourne	Property Manager
Belinda Noble	Media and Content Manager
David Bell	Senior Strategic Planner
Charles Munro	Major Projects Manager - Natural Environment
Kath McKenzie	Producer - Events

NOTES

The meeting commenced at 6:01pm, adjourned at 8:16pm, resumed at 8:22pm, moved into closed session at 9:33pm, resumed in open session at 10:00pm and concluded at 10:03pm

1.0 APOLOGIES

Nil

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF ORDINARY COUNCIL MEETING HELD 24 APRIL 2012

133/12 RESOLVED

Cr Dr Kirsch / Cr Dr Wilkins

That the Minutes of the Ordinary Meeting of Council of 24 April 2012, copies of which were previously circulated to all Councillors, be and are hereby confirmed as a true and correct record of the proceedings of that meeting.

VOTING

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

Against the resolution: Nil

CARRIED

2.2 MINUTES OF EXTRAORDINARY COUNCIL MEETING HELD 1 MAY 2012

134/12 RESOLVED

Cr Regan / Cr Dr Wilkins

That the Minutes of the Extraordinary Meeting of Council of 1 May 2012, copies of which were previously circulated to all Councillors, be and are hereby confirmed as a true and correct record of the proceedings of that meeting.

VOTING

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

Against the resolution: Nil

CARRIED

3.0 DECLARATION OF PECUNIARY AND CONFLICTS OF INTEREST

Councillor De Luca declared a less than significant conflict of interest in relation to Item 6.3, as he declared a less than significant conflict of interest on the actual matter and has had previous dealings with Ms Annette Simpson. He stated that his impartiality was not compromised in any way in that he doesn't benefit or lose from the decision and therefore no further action is required.

Councillor Kirsch declared a less than significant, conflict of interest in relation to Item 6.3. She stated that this was for the same issue as Cr De Luca but noted that she had not met with Ms Simpson.

Councillor Kirsch declared a significant, non pecuniary interest in relation to Item 10.3, as she is friends with Councillor Harris.

Councillor De Luca declared a less than significant, non pecuniary interest in relation to Item 8.12, as he knew Glen Davis and his mother Sandra. As per previous declarations he has not seen Ms Sandra Davis for a very long time and does not believe his impartiality would be affected in any way and therefore no further action is required.

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 ON CONFIDENTIAL ITEMS IN OPEN SESSION

135/12 **RESOLVED**

Cr Regan / Cr De Luca

That Ms Sharp, Mr Petrolo and Mr Backhouse be permitted to address Council on confidential items in open session.

VOTING

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

Against the resolution: Cr Falinski

CARRIED

Councillor Falinski left the chamber at 6:08pm

4.1 Jack Tilburn asked the following question regarding Financial Impact of Clean Energy Legislation:

- a) Would the Council explain in detail what mechanisms it will employ to attempt to measure its carbon dioxide emissions?
- b) What are the costs involved in measuring and monitoring the Council's emissions profile over each day, week, and month?
- c) As Council's financial paper to Council meeting on 27 March 2012, Item 8.5, estimates that additional electricity costs of \$234,622 will arise from some 10% increase in its electricity prices – consumption, is this small increase factored into the 2012-2013 Budget?
- d) What amounts of grants-compensation would be expected and obtained from the three identified funding streams established to offset carbon prices:-
 - i. Community Energy Efficiency Program of \$200M,

- ii. Low Income Energy Efficiency Program of \$100M,
- iii. Household Energy and Financial Sustainability Scheme of \$30M?

Answer:

Deputy General Manager Environment, Malcolm Ryan advised that a response would be forwarded to Mr Tilburn.

4.2 Ann Sharp addressed Item No 13.5, EOI Lot 447 Joalah Rd Duffys Forest

Councillor Falinski returned to the chamber at 6:10pm

4.3 Phil Curry, representing Friends of Freshwater, addressed Item 8.6, Consideration of Submissions: Freshwater Village Proposed Amendment to Warringah Development Control Plan**4.4 Tony Backhouse addressed Item No 13.2, Compulsory Acquisition of Land for Northern Beaches Hospital by New South Wales Health and Infrastructure****PROCEDURAL MOTION - ITEMS MOVED BY EXCEPTION**

136/12 **RESOLVED**

Cr Regan / Cr Dr Harris

That the Order of Business be changed so Items 6.2, 6.4, 6.5, 6.7, 8.1, 8.5, 8.7, 8.10, 8.11, 13.1 and 13.4 are dealt with by exception with the recommendations of the General Manager/ Deputy General Managers being adopted.

VOTING

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

Against the resolution: Cr Falinski

CARRIED

ITEMS RESOLVED BY EXCEPTION:**6.2 MONTHLY FUNDS MANAGEMENT REPORT APRIL 2012**

137/12 **RESOLVED**

Cr Regan / Cr Dr Harris

A. That the report indicating Council's Funds Management position be received and noted.

B. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

RESOLVED BY EXCEPTION

6.4 COUNCILLORS REPORT FROM ATTENDANCE AT THE BIKE FUTURES ANNUAL CONFERENCE MELBOURNE

138/12 **RESOLVED**

Cr Regan / Cr Dr Harris

That the report by Councillor Dr Harris regarding the Bike Futures Annual Conference be noted.

RESOLVED BY EXCEPTION

6.5 COUNCILLORS REPORT FROM ATTENDANCE AT THE COASTAL COUNCILS CONFERENCE

139/12 **RESOLVED**

Cr Regan / Cr Dr Harris

That the report by Councillor Dr Harris regarding the Coastal Councils Conference 2011, Tweed Heads be noted.

RESOLVED BY EXCEPTION

6.7 COUNCILLORS REPORT FROM CONFERENCES ATTENDED BETWEEN 2008 AND 2011

140/12 **RESOLVED**

Cr Regan / Cr Dr Harris

That the reports by Councillor Regan regarding the conferences attended between 2008 and 2011 be noted.

RESOLVED BY EXCEPTION

8.1 ANNUAL FEE FOR THE MAYOR AND COUNCILLORS

141/12 **RESOLVED**

Cr Regan / Cr Dr Harris

- A. That, pursuant to Section 248 of the Local Government Act 1993, the Council fixes the annual fee for Councillors for the period 1 July 2012 to 30 June 2013 at \$21,700 payable monthly in arrears and;
- B. That, pursuant to Section 248 of the Local Government Act 1993, the Council fixes the annual fee for the Mayor for the period 1 July 2012 to 30 June 2013 at \$57,660 payable monthly in arrears.

RESOLVED BY EXCEPTION

8.5 MARCH 2012 QUARTERLY BUSINESS REVIEW STATEMENT142/12 **RESOLVED****Cr Regan / Cr Dr Harris**

- A. That the March 2012 Quarterly Business Review Statement be noted.
- B. That changes to the Current Forecast detailed in the March 2012 Quarterly Business Review Statement (page 2) increasing the Surplus from Continuing Operations before Capital Grants and Contributions from \$1,727,890 to \$1,938,890 at 30 June 2012 be approved.

RESOLVED BY EXCEPTION**8.7 REVIEW OF WARRINGAH SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN**143/12 **RESOLVED****Cr Regan / Cr Dr Harris**

- A. That the draft amended *Warringah Section 94A Development Contributions Plan 2012* be placed on public exhibition in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*.
- B. That all submissions received be reported back to Council at the conclusion of the exhibition period.

RESOLVED BY EXCEPTION**8.10 REPORT OF THE WARRINGAH TRAFFIC COMMITTEE MEETING HELD 1 MAY 2012**144/12 **RESOLVED****Cr Regan / Cr Dr Harris**

That the recommendations of the Warringah Traffic Committee held on 1 May 2012 in respect to Items 3.1 and 3.2 as reprinted below be ADOPTED.

3.1 Improvements to Warringah Traffic Committee and Road Safety Education Program Process

- A. That the changes to the operating procedures for the Warringah Traffic Committee and Road Safety Education Program be noted.

3.2 Resignation of Community Bicycle Representative

- A. That Council write to Mr West and indicate its appreciation for his dedication to cycling in Warringah and his time and effort as the community bicycle representative on the Warringah Traffic Committee.
- B. That the position of Community Bicycle Representation be retained and Council call for expression of interest to fill this position.

RESOLVED BY EXCEPTION

8.11 RENAMING OF JOALAH ROAD, DUFFYS FOREST145/12 **RESOLVED****Cr Regan / Cr Dr Harris**

- A. Council approve the renaming of Joalah Road, Duffys Forest, between Namba Road and the cul-de-sac to the north, as Yanada Road;
- B. Council, in accordance with Section 162 of the Roads Act 1993, publish a notice in the Government Gazette giving notice of the new road name, Yanada Road.

RESOLVED BY EXCEPTION**13.1 TENDER 2012/028 - CURL CURL SPORTS CENTRE AMENITIES RENEWAL**146/12 **RESOLVED****Cr Regan / Cr Dr Harris**

- A. That the tender of Sydney Construction Group Pty Ltd (RFT2012/028) for the sum of \$808,250.00 excluding GST be accepted.
- B. That a contingency of 10% in the amount of \$80,825.00 be approved to allow for unforeseen variations. This brings the total amount to be requisitioned to \$889,075.00 excluding GST.

RESOLVED BY EXCEPTION**13.4 INCREASED BUDGET FOR DESIGN OF STAGE 2B OF THE NARRABEEN LAGOON MULTI-USE TRAIL**147/12 **RESOLVED****Cr Regan / Cr Dr Harris**

That Council:

- A. Approve an increase in the value of Contract T2010/050 of \$93,070 (ex GST) to cover variations to the contract for design of the Narrabeen Lagoon Multi-Use Trail.
- B. Delegate authority to the General Manager to authorise the variation payments for this Contract.

RESOLVED BY EXCEPTION

5.0 MAYORAL MINUTES

5.1 MAYORAL MINUTE NO 4/2012 FRESHWATER DINING PODS - CALL TO THE COMMUNITY FOR EXPRESSIONS OF INTEREST

148/12 RESOLVED

Cr Regan

That Council -

- A. Develop a broad criteria to be incorporated as part of the expression of interest process including details of their responsibility to install and maintain the pods;
- B. Publicly call for written expressions of interest from the community, specifically from not-for-profit organisations including local public schools and kindergartens;
- C. Staff determine whether to refer the Expressions of Interest received to one of Council's Strategic Reference Groups or one of the panels established to assess applications under Council's current grants program to ensure transparency and equity in the assessment process;
- D. The recommendation to be approved by the General Manager in line with Council's current Disposal of Physical Assets Procedures;
- E. Staff report to council providing details of the process, the successful applicant and costs incurred.

Councillor Laugesen left the chamber at 6:26pm

VOTING

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

Against the resolution: Nil

CARRIED

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

Councillor Laugesen returned to the chamber at 6:27pm

PROCEDURAL MOTION – ITEM BE DEALT WITH IN OPEN SESSION

149/12 RESOLVED

Cr Dr Harris / Cr Falinski

That Item 13.2, Compulsory Acquisition of Land for Northern Beaches Hospital by New South Wales Health and Infrastructure, be dealt with in open session.

VOTING

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

Against the resolution: Nil

CARRIED

REPORTS TO COUNCIL MEETING**6.0 GENERAL MANAGER'S REPORTS****6.1 MINUTES OF THE SHOROC INC BOARD MEETING HELD 2 MAY 2012**

150/12 **RESOLVED**

Cr Dr Harris / Cr Falinski

That

- A. The Minutes of the SHOROC Incorporated Board Meeting of 2 May 2012 be noted and the recommendations contained therein be ADOPTED.
- B. The delayed project in Item 7.2, the calendar of events, be followed up as soon as practical.

VOTING

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

Against the resolution: Crs De Luca, Kirsch, Ray and Laugesen

CARRIED

6.3 CODE OF CONDUCT - REPORT BY SOLE CONDUCT REVIEWER - COMPLAINT RE CONFLICT OF INTEREST ISSUE

Cr De Luca / Cr Laugesen

That this Council resolves to:

1. Adopt the recommendation of Ms Annette Simpson that the Code of Conduct has not been breached and no further action be taken;
2. Adopt the recommendation of the Code of Conduct Reviewer, Ms Annette Simpson;
3. Note that in the case of Cr Giltinan's matter:
 - a) Ms Annette Simpson has found that a conflict of interest could not be established as there was no evidence of a benefit to Cr Giltinan at the time of his voting and that the responsibility of a benefit was unreasonable and too remote.
 - b) That the full complaint letters from the two residents have been provided by Ms Annette Simpson and published with their names included.
 - c) That in a previous matter, Ms Annette Simpson, unlike in Cr Giltinan's current matter,

found that for the purpose of a conflict of interest there is no need to have evidence to establish a benefit or loss to the Councillor to constitute a conflict of interest, that no consideration of the likelihood or remoteness of a benefit or loss was necessary to consider and that a mere perception could constitute a conflict of interest.

- d) That in a previous matter Ms Annette Simpson refused to provide the accused Councillor with the complaint unlike in the Cr Giltinan matter, any purported evidence in support of the complaint and proper procedural fairness and natural justice in that previous matter in order for the accused Councillor to properly answer the case.
- e) In view of the similarities of the two cases and yet them being treated significantly different by Ms Annette Simpson, her conduct be referred by Council to the NSW Ombudsman and the NSW Division of Local Government for review.

AMENDMENT

Cr Sutton / Cr Falinski

That Council note the contents of the report of the Sole Conduct Reviewer, and take no further action.

VOTING

For the amendment: Crs Kirsch, Falinski, Giltinan, Wilkins, Harris, Sutton and Regan

Against the amendment: Crs De Luca, Ray and Laugesen

The AMENDMENT was CARRIED and became the substantive motion

SUBSTANTIVE MOTION

Cr Sutton / Cr Falinski

That Council note the contents of the report of the Sole Conduct Reviewer, and take no further action.

AMENDMENT

Cr Laugesen / Cr De Luca

A That Council note the contents of the report of the Sole Conduct Reviewer, and take no further action.

B That Council note that Cr Giltinan's matter was investigated, resolved and published in three months.

VOTING

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

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

LOST

151/12 RESOLVED***Cr Sutton / Cr Falinski***

That Council note the contents of the report of the Sole Conduct Reviewer, and take no further action.

VOTING

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

Against the resolution: Cr Laugesen

CARRIED**6.6 COUNCILLOR'S REPORT FROM ATTENDANCE AT THE WASTE 2012 - WASTE AVOIDANCE AND RESOURCE RECOVERY CONFERENCE****152/12 RESOLVED*****Cr Dr Harris / Cr Ray***

That the report by Councillor Dr Harris regarding the Waste 2012: Waste Avoidance and Resource Recovery Conference be noted.

VOTING

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

Against the resolution: Nil

CARRIED**7.0 COMMUNITY DIVISION REPORTS****7.1 POLICY NO CS-PL 01 BEACH PARKING PERMITS*****Cr De Luca / Cr Ray***

That Council adopt the Parking Permit Policy CS-PL01 as amended with the following two changes to the proposed eight amendments:

- Maintain the wording of "parking permits".
- Change of wording to clarify that Parking Permits are only provided to community groups, surf life saving clubs, and swimming clubs free of charge, where they can demonstrate a community and/or volunteer service activity. They are not issued for purely recreational purposes on the basis of membership within a community group.

Councillor Falinski left the chamber at 7:27pm

Councillor Falinski returned to the chamber at 7:28pm

VOTING

For the motion: Crs De Luca, Ray and Laugesen

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

LOST

153/12 **RESOLVED**

Cr Falinski / Cr Dr Wilkins

That Council adopt the Beach Parking Permit Policy CS-PL 01 as amended in response to the submissions received.

The Mayor, Councillor Regan left the chamber at 7:48pm and the Deputy Mayor, Councillor Sutton took the chair.

VOTING

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

Against the resolution: Crs De Luca, Ray and Laugesen

CARRIED

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

Councillor Regan returned to the chamber at 7:51pm

7.2 AUSTRALIA DAY EVENTS REVIEW

Cr Regan / Cr Sutton

That Council

- A. continues to acknowledge and thank the significant support and contribution made by the many community groups who have historically made Australia Day celebrations within Warringah a success,
- B. thank the Australia Day Committee for their commitment and support over the last 3 years,
- C. moves the Australia Day event previously at Forestville and Belrose, to the Warringah Aquatic Centre to deliver a streamlined “family fun” Australia Day celebration,
- D. continues to consult with the community groups to continue to build on the success of Dee Why and Narrabeen events, and work to minimise the costs of the Beacon Hill event, with the budget allocation as detailed in Figure. 1,
- E. notes that community Australia Day celebrations are eligible to apply for Council’s Cultural Grants,
- F. accept a late application, due by 3pm Monday 4th June 2012, from the community groups associated with the previous Forestville event,

- G. implements new operational procedures and induction processes in accordance with legislative changes for WHS, noting Council's overall responsibility and liability for event delivery, and brands the events accordingly,
- H. establishes an event volunteer database to improve communications with community volunteers,
- I. disband the existing Australia Day Committee to be replaced with an Australia Day working group made up of representatives from Council's Events team, community groups and volunteer site coordinators,
- J. note the Australia Day Program Evaluation Report.

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

That this Council resolves:

- 1. To note with concern that members of the Australia Day Committee and members of the community have not been consulted as to the specific proposals on Council's agenda tonight on this matter.
- 2. That the matter be deferred to the next Council meeting in order to allow the Australia Day Community Committee and the community to comment on the specific proposals of the Deputy General Manager Community.

VOTING

For the amendment: Crs De Luca, Ray and Laugesen

Against the amendment: Crs Kirsch, Falinski, Giltinan, Wilkins, Harris, Sutton and Regan

LOST**154/12 RESOLVED*****Cr Regan / Cr Sutton***

That Council

- A. continues to acknowledge and thank the significant support and contribution made by the many community groups who have historically made Australia Day celebrations within Warringah a success,
- B. thank the Australia Day Committee for their commitment and support over the last 3 years,
- C. moves the Australia Day event previously at Forestville and Belrose, to the Warringah Aquatic Centre to deliver a streamlined "family fun" Australia Day celebration,
- D. continues to consult with the community groups to continue to build on the success of Dee Why and Narrabeen events, and work to minimise the costs of the Beacon Hill event, with the budget allocation as detailed in Figure. 1,
- E. notes that community Australia Day celebrations are eligible to apply for Council's Cultural Grants,
- F. accept a late application, due by 3pm Monday 4th June 2012, from the community groups

associated with the previous Forestville event,

- G. implements new operational procedures and induction processes in accordance with legislative changes for WHS, noting Council's overall responsibility and liability for event delivery, and brands the events accordingly,
- H. establishes an event volunteer database to improve communications with community volunteers,
- I. disband the existing Australia Day Committee to be replaced with an Australia Day working group made up of representatives from Council's Events team, community groups and volunteer site coordinators,
- J. note the Australia Day Program Evaluation Report.

VOTING

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

Against the resolution: Cr De Luca

CARRIED

In accordance with clause 13.2 (ii) of Council's Code of Meeting Practice, the meeting was adjourned at 8.16pm. The meeting resumed at 8.22pm with the same Councillors present.

7.3 BROOKVALE SHOW 2012

Cr Regan / Cr Dr Wilkins

That the Brookvale Show 2012 go ahead as budgeted ensuring that the sustainable events policy be adhered to.

AMENDMENT

Cr Ray / Cr De Luca

That Council:

- A. Supports the development of the annual event, Brookvale Show, to include a revised version of the Sustainability/Eco Expo. Brookvale Show would be based on the principals of sustainable event management, combining entertainment, variety and interactivity to demonstrate Warringah Council's environmental accountability and present opportunities for ongoing environmental participation to members of the local community.
- B. Considers the allocation of an additional funding of \$59,000 per annum from the Community Strategic Plan at the June 2012 Council Meeting.

VOTING

For the amendment: Crs De Luca, Giltinan, Ray and Laugesen

Against the amendment: Crs Kirsch, Falinski, Wilkins, Harris, Sutton and Regan

LOST

The mover and seconder of the original motion agreed to an addition of point B to the motion.

155/12 RESOLVED**Cr Regan / Cr Dr Wilkins**

- A. That the Brookvale Show 2012 go ahead as budgeted ensuring that the sustainable events policy be adhered to; and
- B. That Council continue to identify further budget opportunities in the 2012-2013 budget to expand the sustainable living corner of the show.

VOTING

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

Against the resolution: Crs De Luca and Laugesen

CARRIED

Councillor De Luca left the chamber at 8:32pm

8.0 ENVIRONMENT DIVISION REPORTS**8.2 ONE ASSOCIATION - DELEGATES FOR VOTING ON THE MATTER OF ONE ASSOCIATION****156/12 RESOLVED****Cr Ray / Cr Dr Wilkins**

That Council nominate Councillors Harris, Kirsch, Laugesen, Ray and Wilkins as voting delegates to take part in the forthcoming secret postal ballot to deal with the matter of One Association, and that their names and personal postal addresses be forwarded to the Associations to form the Roll of Voters.

VOTING

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

Against the resolution: Nil

CARRIED

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

Councillor De Luca returned to the chamber at 8:34pm

8.3 COUNCILLOR INDUCTION PROGRAM FOLLOWING THE LOCAL GOVERNMENT ELECTIONS - SEPTEMBER - DECEMBER 2012**157/12 RESOLVED*****Cr Dr Harris / Cr Ray***

That Council endorse the proposed Councillor induction program and its implementation following the September 2012 Local Government Elections, however that the date for the session scheduled after the weekend session (Monday 15 October) be scheduled for the following week.

Councillor Sutton left the chamber at 8:35pm

Councillor Sutton returned to the chamber at 8:37pm

VOTING

For the resolution: Crs De Luca, Kirsch, Falinski, Giltinan, Wilkins, Harris and Ray

Against the resolution: Crs Regan, Laugesen and Sutton

CARRIED

Councillor Laugesen left the chamber at 8:41pm

Councillor Laugesen returned to the chamber at 8:43pm

8.4 STRATEGIC REFERENCE GROUP RECOMMENDATIONS - ENVIRONMENT DIVISION***Cr Dr Kirsch***

- A. That Council note the information provided by staff in relation to the draft Coastal Erosion Emergency Action Sub-Plan.
- B. That Council:
1. Take the opportunity to work with Ausgrid to improve the reliability of electricity supply and seek support in reducing Warringah's exposure to the need for excessive tree pruning
 2. Ask Ausgrid to work with their contractors to ensure minimum clearance are used (by the tree pruning contractor) to ensure reduced complaints from residents
 3. Ask that Ausgrid setup a working group (and get Council involved) to address electricity reliability in Warringah without resorting to excessive tree pruning (Note: there may be an opportunity to be involved early in major Ausgrid expenditure decisions around infrastructure renewal)
 4. Keep Ausgrid on side as Council would not have the funding to perform this work across the LGA.
 5. Notes that staff in Parks Reserves & Foreshores are currently looking at revising Council's "Street Tree Planting" policy which could provide guidance (for Council) in this overall issue of reliable electricity supply throughout Warringah LGA.

- 6 Explore joint funding opportunities with Ausgrid and residents to either install ABC or relocate power lines underground in key locations in Warringah.(ie bushland reserves, main streets).
 - 7 Remind State Government of their responsibilities and request they help Council address this pressing issue.
 - 8 Ask Ausgrid their preference for street trees.
 9. Pending data being held in Council regarding Ausgrid damaging trees, investigate the option of seeking compensation from Ausgrid for damaged/killed trees.
- C That Council:
- 1 recognises the primacy and protection of the beach over public and private assets
 - 2 resolves that public monies not be used to protect private properties in a coastal erosion emergency
 - 3 communicate the WIDER implications of coastal erosion emergency protection measures to property owners AND the WIDER COMMUNITY on a REGULAR basis
 - 4 in view of uncertainties and ongoing research, periodically review the Coastal Erosion Emergency Action Sub-Plan as appropriate
- D That Council:
- 1 notes that the SRG supports Council's current strategy of not planning for further housing targets without commitment from the State Government for improved infrastructure
 - 2 educate the public about the relationship between population growth, the environment, the economy, human wellbeing and sustainability via community organised forum, and
 - 3 collate data regarding the infrastructure costs of population growth and the implications to the rate payer, as it becomes available and return to the ES-SRG

Councillor Laugesen left the chamber at 8:49pm

Councillor Laugesen returned to the chamber at 8:50pm

AMENDMENT

Cr Dr Wilkins / Cr Regan

- A. That Council note the information provided by staff in relation to the draft Coastal Erosion Emergency Action Sub-Plan.
- B. That Council:
1. Take the opportunity to work with Ausgrid to improve the reliability of electricity supply and seek support in reducing Warringah's exposure to the need for excessive tree pruning
 2. Ask Ausgrid to work with their contractors to ensure minimum clearance are used (by the tree pruning contractor) to ensure reduced complaints from residents

- 3 Ask that Ausgrid setup a working group (and get Council involved) to address electricity reliability in Warringah without resorting to excessive tree pruning (Note: there may be an opportunity to be involved early in major Ausgrid expenditure decisions around infrastructure renewal)
 - 4 Keep Ausgrid on side as Council would not have the funding to perform this work across the LGA.
 - 5 Notes that staff in Parks Reserves & Foreshores are currently looking at revising Council's "Street Tree Planting" policy which could provide guidance (for Council) in this overall issue of reliable electricity supply throughout Warringah LGA.
 - 6 Explore joint funding opportunities with Ausgrid and residents to either install ABC or relocate power lines underground in key locations in Warringah.(ie bushland reserves, main streets).
 - 7 Remind State Government of their responsibilities and request they help Council address this pressing issue.
 - 8 Ask Ausgrid their preference for street trees.
 9. Pending data being held in Council regarding Ausgrid damaging trees, investigate the option of seeking compensation from Ausgrid for damaged/killed trees.
- C. That the following items be brought to a councillor briefing for discussion:
- a. That Council
 - i recognises the primacy and protection of the beach over public and private assets
 - ii resolves that public monies not be used to protect private properties in a coastal erosion emergency
 - iii communicate the wider implications of coastal erosion emergency protection measures to property owners and the wider community on a regular basis
 - iv in view of uncertainties and ongoing research, periodically review the Coastal Erosion Emergency Action Sub-Plan as appropriate.
 - b. That Council
 - i notes that the ES-SRG supports Council's current strategy of not planning for further housing targets without commitment from the State Government for improved infrastructure
 - ii educate the public about the relationship between population growth, the environment, the economy, human wellbeing and sustainability via community organised forum, and
 - iii collate data regarding the infrastructure costs of population growth and the implications to the rate payer, as it becomes available and return to the ES-SRG

VOTING

For the amendment: Crs Kirsch, Falinski, Giltinan, Wilkins, Harris, Sutton and Regan

Against the amendment: Crs De Luca, Ray and Laugesen

The AMENDMENT was CARRIED and became the substantive motion

158/12 RESOLVED***Cr Dr Wilkins / Cr Regan***

- A. That Council note the information provided by staff in relation to the draft Coastal Erosion Emergency Action Sub-Plan.
- B. That Council:
1. Take the opportunity to work with Ausgrid to improve the reliability of electricity supply and seek support in reducing Warringah's exposure to the need for excessive tree pruning
 2. Ask Ausgrid to work with their contractors to ensure minimum clearance are used (by the tree pruning contractor) to ensure reduced complaints from residents
 3. Ask that Ausgrid setup a working group (and get Council involved) to address electricity reliability in Warringah without resorting to excessive tree pruning (Note: there may be an opportunity to be involved early in major Ausgrid expenditure decisions around infrastructure renewal)
 4. Keep Ausgrid on side as Council would not have the funding to perform this work across the LGA.
 5. Notes that staff in Parks Reserves & Foreshores are currently looking at revising Council's "Street Tree Planting" policy which could provide guidance (for Council) in this overall issue of reliable electricity supply throughout Warringah LGA.
 6. Explore joint funding opportunities with Ausgrid and residents to either install ABC or relocate power lines underground in key locations in Warringah.(ie bushland reserves, main streets).
 7. Remind State Government of their responsibilities and request they help Council address this pressing issue.
 8. Ask Ausgrid their preference for street trees.
 9. Pending data being held in Council regarding Ausgrid damaging trees, investigate the option of seeking compensation from Ausgrid for damaged/killed trees.
- C. That the following items be brought to a councillor briefing for discussion:
- a. That Council:
 - i recognises the primacy and protection of the beach over public and private assets
 - ii resolves that public monies not be used to protect private properties in a coastal erosion emergency
 - iii communicate the wider implications of coastal erosion emergency protection measures to property owners and the wider community on a regular basis
 - iv in view of uncertainties and ongoing research, periodically review the Coastal Erosion Emergency Action Sub-Plan as appropriate.
 - b. That Council:
 - i notes that the ES-SRG supports Council's current strategy of not planning for further housing targets without commitment from the State Government for improved infrastructure

- ii educate the public about the relationship between population growth, the environment, the economy, human wellbeing and sustainability via community organised forum, and
- iii collate data regarding the infrastructure costs of population growth and the implications to the rate payer, as it becomes available and return to the ES-SRG

VOTING

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

Against the resolution: Crs De Luca, Ray and Laugesen

CARRIED

PROCEDURAL MOTION - CHANGE TO ORDER OF BUSINESS***Cr Dr Harris / Cr Laugesen***

That the Order of Business be changed so Item 13.2, Compulsory Acquisition of Land for Northern Beaches Hospital by New South Wales Health and Infrastructure, be brought forward and dealt with immediately.

VOTING

For the motion: Crs De Luca, Kirsch, Harris, Ray and Laugesen

Against the motion: Crs Falinski, Giltinan, Wilkins, Sutton and Regan

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

PROCEDURAL MOTION - DEFERMENT OF MATTER

159/12 **RESOLVED**

Cr De Luca / Cr Laugesen

That Item 13.2, Compulsory Acquisition of Land for Northern Beaches Hospital by New South Wales Health and Infrastructure, be deferred to the next Council Meeting so as to provide the public with the report on the matter that is contained within the confidential agenda for Councillors.

VOTING

For the resolution: Crs De Luca, Kirsch, Wilkins, Harris, Ray and Laugesen

Against the resolution: Crs Falinski, Giltinan, Sutton and Regan

CARRIED

8.6 CONSIDERATION OF SUBMISSIONS: FRESHWATER VILLAGE PROPOSED AMENDMENT TO WARRINGAH DEVELOPMENT CONTROL PLAN

160/12 RESOLVED

Cr Dr Wilkins / Cr Regan

- A. That Council approve the amendment to Warringah Development Control Plan G5 – Freshwater Village as amended at Attachment 1 following consideration of the submissions received in accordance with the *Environmental Planning and Assessment Regulation 2000*.
- B. That Council give notice of its decision within 28 days as required by the *Environmental Planning and Assessment Regulation 2000*.
- C. That Council continue to support the operation of the Freshwater Working Party until at least such a time as the rezoning of the Oliver Street car park has been considered and resolved.

VOTING

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

Against the resolution: Nil

CARRIED**8.8 DRAFT ENVIRONMENTAL SUSTAINABILITY STRATEGY**

161/12 RESOLVED

Cr Dr Kirsch / Cr Giltinan

That this item be deferred to a councillor briefing and that a review of the 325 actions of the current Environmental Sustainability Strategy 2001 be included in the briefing.

VOTING

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

Against the resolution: Nil

CARRIED**8.9 DRAFT NORTH NARRABEEN BEACH RESERVE AND BIRDWOOD PARK MASTERPLAN**

162/12 RESOLVED

Cr Regan / Cr Giltinan

That the North Narrabeen Beach Reserve and Birdwood Park Master plan be placed on exhibition for 42 days and that the Warringah Coastal Community Committee and Environmental Sustainability Strategic Reference Group be specifically consulted on the Master plan and that its recommendations be included in the report to Council.

VOTING

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

Against the resolution: Nil

CARRIED

8.12 PUBLIC EXHIBITION OF PROPOSED RENAMING OF ARANDA RESERVE

163/12 **RESOLVED**

Cr Sutton / Cr De Luca

That residents be given a further week to comment on the matter and that the item be reported to the next Council Meeting.

VOTING

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

Against the resolution: Cr Harris

CARRIED

PROCEDURAL MOTION - ITEMS MOVED BY EXCEPTION

164/12 **RESOLVED**

Cr De Luca / Cr Regan

That the Order of Business be changed so Item 13.3 is dealt with by exception with the recommendations of the Deputy General Manager Environment being adopted.

VOTING

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

Against the resolution: Nil

CARRIED

ITEM RESOLVED BY EXCEPTION:**13.3 TENDER 2012/026 - RESTORATION WORKS TO FRESHWATER ROCK POOL**

165/12 **RESOLVED**

Cr De Luca / Cr Regan

A. That Council accepts the tender from Corroseal Bridge and Marine for an amount of \$649,226.50 (excluding GST) for undertaking the restoration works to Freshwater Rock Pool.

- B. That the General Manager be authorised to enter into the contract and to approve contract variations up to a total contingency amount of \$162,306 (excluding GST).

DEALT WITH BY EXCEPTION**10.0 NOTICES OF MOTION****10.1 NOTICE OF MOTION NO 15/2012
COUNCILLOR REQUEST REPORT BROUGHT FORWARD TO AUGUST 2012
MEETING**

The mover advised that the motion had been WITHDRAWN

**10.2 NOTICE OF MOTION NO 16/2012
REPORT ON FEASIBILITY OF RENEWABLE ENERGY ART FESTIVAL ALONG OUR
HEADLANDS AND BEACHES**

166/12 RESOLVED

Cr Dr Kirsch / Cr Falinski

- A. That a report be brought to Council exploring the feasibility, potential costs, and funding options - including but not limited to potential sponsorships and grant funding - for a renewable energy art festival, including kinetic energy sculptures and sculptures that are powered by wind-, solar-, wave- and tidal-energy, along our headlands and beaches. Any such report should be consistent with, and supported by Council's Cultural Plan.
- B. That approximately \$15 000 be funded by operational savings from within the Community Division 2012/13 operational budget.

VOTING

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

Against the resolution: Nil

CARRIED**10.3 NOTICE OF MOTION NO 18/2012
ALGA CONFERENCE ATTENDANCE**

167/12 RESOLVED

Cr Dr Harris / Cr Sutton

That Council increases Cr Harris' annual allowance as per Clause 23 of GOV PL 120, Policy for Payment and Re-imbusement of Expenses Incurred by, and Provision of Facilities to, The Mayor, Deputy Mayor and Councillors from \$5000 to up to \$6000 in this financial year in order to enable her attendance at the ALGA conference previously approved by this Council through the councillors training and conference budget. This will enable the full cost of the ALGA Conference to be paid by Council.

VOTING

For the resolution: Crs Kirsch, Giltinan, Wilkins, Harris and Sutton

Against the resolution: Crs De Luca, Falinski, Ray, Laugesen and Regan

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

13.0 CONFIDENTIAL MATTERS – CLOSED SESSION**168/12 RESOLVED*****Cr Regan / Cr Sutton***

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

- Item 13.5 Notice of Motion No 17/2012
Expression of Interest - Lot 447 Joalah Road, Duffys Forest
- Item 13.6 Response to Question on Notice No 13/2012
Council's Corporate Lawyer - Ms Vivienne Ingram
- Item 13.7 Response to Question on Notice No 14/2012
Expenditure on External Lawyers – DLA Piper

Matters to be Discussed During Closed Session - Section 10D

- Item 13.5 Notice of Motion No 17/2012
Expression of Interest - Lot 447 Joalah Road, Duffys Forest
- Item 13.6 Response to Question on Notice No 13/2012
Council's Corporate Lawyer - Ms Vivienne Ingram
- Item 13.7 Response to Question on Notice No 14/2012
Expenditure on External Lawyers – DLA Piper

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

- Item 13.5 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)(a) personnel matters concerning particular individuals
- Item 13.7 10A(2)(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

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 De Luca, Kirsch, Falinski, Giltinan, Wilkins, Harris, Ray, Laugesen, Sutton and Regan

Against the resolution: Nil

CARRIED

The meeting moved into closed session at 9:33pm

The meeting resumed in open session at 10:00pm

14.0 REPORT OF RESOLUTIONS PASSED IN CLOSED SESSION

The General Manager reported on resolutions passed in closed session

**13.5 NOTICE OF MOTION NO 17/2012
EXPRESSION OF INTEREST - LOT 447 JOALAH ROAD, DUFFYS FOREST**

169/12 **RESOLVED**

Cr Dr Harris / Cr Regan

That the General Manager after having satisfied himself that the current consent has been commenced have delegated authority to negotiate the purchase of Lot 447 Joalah Road Duffy's Forest for a sum not greater than 10% above the amount determined by Council on 22 May 2012 in closed session.

VOTING

For the resolution: Crs De Luca, Kirsch, Wilkins, Harris, Ray, Laugesen and Regan

Against the resolution: Crs Falinski, Giltinan and Sutton

CARRIED

PROCEDURAL MOTION – NOTATION IN MINUTES170/12 **RESOLVED****Cr De Luca / Cr Dr Kirsch**

That a notation be added to the minutes detailing the agreed maximum price that Council delegate to the General Manager to submit as an expression of interest for the purchase of Lot 447 Joalah Road, Duffy's Forest.

VOTING

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

Against the resolution: Nil

CARRIED

NOTE: Councillors Falinski and Sutton were not present for voting on this item

The meeting concluded at 10.03pm

This is the final page of the Minutes comprising 27 pages numbered 1 to 27 of meeting 2012/06 of Warringah Council held on 22 May 2012 and confirmed on 26 June 2012.

Mayor

General Manager