



northern  
beaches  
council

# MINUTES

## ORDINARY COUNCIL MEETING

held at the Civic Centre, Dee Why on

**TUESDAY 17 APRIL 2018**

**Minutes of an Ordinary Meeting of Council  
held on Tuesday 17 April 2018  
at the Civic Centre, Dee Why  
Commencing at 6:31pm**

**ATTENDANCE:**

**Councillors**

Michael Regan (Mayor)  
Candy Bingham (Deputy Mayor)  
Rory Amon  
Pat Daley OAM  
Vincent De Luca OAM  
Kylie Ferguson  
Sarah Grattan  
Roslyn Harrison  
Sue Heins  
Alex McTaggart  
Penny Philpott  
Ian White

**Officers**

Helen Lever	Acting Chief Executive Officer
Ben Taylor	General Manager Environment & Infrastructure
David Kerr	General Manager Planning Place & Community
Kerrie Pryke	Acting General Manager Customer & Corporate
David Walsh	Chief Financial Officer
Michael McDermid	Corporate Strategy Manager
Andrew Pigott	Executive Manager Strategic & Place Planning
Campbell Pfeiffer	Executive Manager Property
Todd Dickinson	Executive Manager Natural Environment & Climate Change
Andy Davies	Executive Manager Transport & Civil Infrastructure
Tracey Bennett	Governance Manager
Sherryn McPherson	Acting Governance Coordinator
Jasmine Evans	Governance Officer
Don Morales	Information Management Technology Officer

**Notes**

The meeting commenced at 6:31pm, moved into closed session at 10:00pm, resumed in open session at 10:38pm and concluded at 10:55pm.

## 1.0 APOLOGIES

077/18 RESOLVED

**Cr Ferguson / Cr De Luca**

That apologies be received from Councillors Sprott, Walton and Warren.

### VOTING

FOR: Unanimous

**CARRIED**

## 2.0 DECLARATION OF PECUNIARY INTEREST AND CONFLICTS OF INTEREST

- 2.1 Councillor Regan declared a significant non-pecuniary interest in relation to Item 10.6 Response to Council Resolution 07/2017 – Poker Machine Licences and took no part in discussion or voting on this item. The reason provided by Councillor Regan was:

*“Due to my association with a number of RSL sporting clubs as a member. On occasion I undertake negotiations with a number of clubs in this area to secure sponsorship funding for the sporting clubs I am associated with.”*

- 2.2 Councillor Grattan declared a pecuniary interest in relation to Item 9.1 Public Exhibition of the Draft Manly to Seaforth Flood Study and took no part in discussion or voting on this item. The reason provided by Councillor Grattan was:

*“My home is potentially in the Probable Maximum Flood zone.”*

- 2.3 Councillor De Luca declared a less than significant non-pecuniary interest in relation to Item 11.1 Notice of Motion No 23/2018 - Operations of all Skate Parks during Public Address. The reason provided by Councillor De Luca was:

*“Principle Jann Pattison of Davison High School has made a submission. She is my former teacher and student advisor 22 years ago at Beacon Hill High School. I have seen her twice at reunions, however I have no relationship with her.”*

- 2.4 Councillor Harrison declared a less than significant non-pecuniary interest in relation to Item 11.1 Notice of Motion No 23/2018 - Operations of all Skate Parks during Public Address. The reason provided by Councillor Harrison was:

*“Resident referred to Jann Pattison, Principle of Davidson High School. My son attends Davidson High School and I sometimes work with Ms Pattison in my capacity as a teacher.”*

- 2.5 Councillor White declared a significant non-pecuniary interest in relation to the Motion of Urgency regarding Warriewood and took no part in discussion or voting on this item. The reason provided by Councillor White was:

*“The discussion is about 2 McPherson Street which is [in the vicinity of] to my mother’s unit.”*

- 2.6 Councillor Daley declared a less than significant non-pecuniary interest in relation to the Motion of Urgency regarding Warriewood. The reason provided by Councillor Daley was:

*“My son owns a house at [in relevant the vicinity of] Warriewood.”*

### **3.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

#### **3.1 MINUTES OF ORDINARY COUNCIL MEETING HELD 27 MARCH 2018**

078/18 **RESOLVED**

***Cr Harrison / Cr Bingham***

That the Minutes of the Ordinary Council Meeting held 27 March 2018, copies of which were previously circulated, are hereby confirmed as a true and correct record of the proceedings of that meeting.

#### **VOTING**

**FOR:** Unanimous

**CARRIED**

## 4.0 PUBLIC FORUM AND PUBLIC ADDRESS

*NOTE: 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.*

### PUBLIC FORUM SPEAKERS:

- 4.1 Lloyd Keen addressed Council in regard to the Roseberry Street Balgowlah Shopping District.
- 4.2 Jack Tilburn addressed Council in regard to questions on the Model Code of Conduct.
- 4.3 David Murray addressed Council in regard to the Pittwater area following the Council amalgamation.

### PUBLIC ADDRESS SPEAKERS:

#### 4.4 Item 9.3 Church Point Wharf Precinct Upgrade

Neelica Raffel, President of the Scotland Island Residents Association and Michael Wiener, President of the West Pittwater Community Association addressed Council in support of this item.

#### 4.5 Item 9.6 Appointment of Directors - Pittwater Environmental Foundation

Marita Macrae addressed Council speaking in support of the item.

#### 4.6 Item 10.1 Planning Proposal - 75-79 Old Pittwater Road & 19 Cross Street, Brookvale to Permit Additional Uses and Increase Maximum Building Height

Geoffrey Harrison addressed Council speaking in support of the planning proposal and John Henri addressed Council speaking against the planning proposal.

#### 4.7 Item 10.4 Moveable Heritage Management Policy

Richard Michell, President of the Manly Warringah Pittwater Historical Society addressed Council in support of this item.

#### 4.8 Item 11.1 Notice of Motion No 23/2018 - Operations of all Skate Parks

Rachael Jackson and Amanda Zanchi addressed Council speaking against the motion.

## 5.0 ITEMS RESOLVED BY EXCEPTION

*NOTE: Councillor Grattan left the chamber at 8:16pm due to a declared pecuniary interest in relation to item 9.1.*

079/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That Items 7.3, 7.4, 8.1, 8.2, 9.1, 9.5, 10.2, 10.4 and 10.5 are dealt with by exception with the recommendations of the Chief Executive Officer / General Managers being adopted.

### **VOTING**

**FOR:** Crs McTaggart, Heins, Amon, Philpott, Daley, White, Harrison, Ferguson, De Luca, Bingham and Regan

**ABSENT:** Cr Grattan

**CARRIED**

## 7.3 MONTHLY INVESTMENT REPORT MARCH 2018

080/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That:

- A. Council receives and notes the Investment Report as at 31 March 2018, including the certification by the Responsible Accounting Officer.
- B. Council notes that no change to Council's Investment Policy was required following the review of Council's Investment Policy by Council's Audit, Risk and Improvement Committee and by Council's Investment Advisors.

**RESOLVED BY EXCEPTION**

## 7.4 EXPRESSIONS OF INTEREST - NORTHERN BEACHES UNIVERSITY CAMPUS

081/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That Council seek an Expression of Interest from universities to establish a presence on the Northern Beaches.

**RESOLVED BY EXCEPTION**

**8.1 COMMUNITY LIBRARY FUNDING FOR THE BOOKLOVER'S CLUB NORTHERN BEACHES INC**

082/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That Council approves the 2017/18 funding allocation of \$1,300 for The Booklovers Club Northern Beaches Inc.

**RESOLVED BY EXCEPTION**

**8.2 SUSPENSION OF ALCOHOL FREE ZONE FOR TASTE OF MANLY 2018**

083/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That:

- A. Council suspend the Alcohol Free Zone and Alcohol Prohibited Area for the Taste of Manly 2018 event only; within the designated festival area in Manly on Saturday 26 and Sunday 27 May 2018 between the hours of 11.30am and 5.00pm daily.
- B. Council, in accordance with s645(i) of the *Local Government Act, 1993*, provide appropriate notice through a local newspaper of the suspension of the Alcohol Free Zone and Alcohol Prohibited Area.
- C. Northern Beaches Council Events Staff continue to liaise with police from the Northern Beaches Local Area Command in relation to safe management of the area during the suspensions.

**RESOLVED BY EXCEPTION**

**9.1 PUBLIC EXHIBITION OF THE DRAFT MANLY TO SEAFORTH FLOOD STUDY**

084/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That Council place the Draft Manly to Seaforth Flood Study (March 2018) on public exhibition for a period of at least 28 days.

**RESOLVED BY EXCEPTION**

**9.5 TENDER - CONSTRUCTION SERVICES FOR NORTH NARRABEEN RESERVE SPORTS AMENITIES**

085/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That:

- A. Council decline to accept any of the tenders received for RFT 2018/041 – Major Works for Construction Services for North Narrabeen Reserve Sports Amenities Building.
- B. Council:
- a) enter into negotiations with TCM Construction Group, Dezin Interiors and Bermagui Constructions with a view to entering into a contract in relation to the subject matter of the tender as they have shown the capability and expertise to be able to deliver the works; and
  - b) decline to:
    - i. invite fresh tenders based on the same or different details
    - ii. invite fresh applications from persons interested in tendering for the proposed contract, and
    - iii. invite fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract, because:
      - The project funding includes grant funding of \$80,000 which is time limited and would be lost due to the time required to re-tender.
- C. Authority be delegated to the Acting Chief Executive Officer to enter into negotiations with TCM Construction Group, Dezin Interiors and Bermagui Constructions with a view to Council entering into a contract in relation to the subject matter of the tender and to execute all necessary documentation to give effect to this resolution.

**RESOLVED BY EXCEPTION**

**10.2 PLANNING PROPOSAL - 729-731 PITTWATER ROAD, DEE WHY TO PERMIT ADDITIONAL USES**

086/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That Council exercise its delegation from the Minister for Planning to amend Warringah Local Environmental Plan 2011 to permit the additional uses of 'Medical Centre' and 'Office Premises' on land known as 729-731 Pittwater Road, Dee Why.

**RESOLVED BY EXCEPTION**



#### **10.4 MOVEABLE HERITAGE MANAGEMENT POLICY**

087/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That:

- A. Council place the draft Moveable Heritage Management Policy on public exhibition for a period of 28 days inviting submissions.
- B. Council consult with relevant business units and the Places for People Strategic Reference Group.
- C. Council report back following completion of public exhibition and internal consultation.

***RESOLVED BY EXCEPTION***

#### **10.5 DRAFT NORTHERN BEACHES COUNCIL CONTRIBUTIONS PLAN 2018**

088/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That:

- A. Council endorse the public exhibition of the Draft Northern Beaches Council Contributions Plan 2018 for a period of 28 days.
- B. The outcomes of the public exhibition be reported back to Council following the conclusion of the exhibition period.

***RESOLVED BY EXCEPTION***

## 6.0 MAYORAL MINUTES

Nil

### PROCEDURAL MOTION – CHANGE TO ORDER OF BUSINESS

*NOTE: Councillor Grattan returned to the chamber at 8:18pm.*

089/18 **RESOLVED**

**Cr Regan / Cr Harrison**

That:

- A. Council change the order of business to deal with items 9.3 and 9.6 in Closed Session at the end of the meeting.
- B. Council resolve into Closed Session in accordance with section 10A(2)(a) and (d) of the Local Government Act, 1993, with the public and press be excluded from the meeting in order to consider:

**Item: 9.3 Church Point Wharf Precinct Upgrade**

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

**Item: 9.6 Appointment of Directors - Pittwater Environmental Foundation**

- (a) Personnel matters concerning particular individuals (other than councillors)

#### VOTING

**FOR:** Unanimous

**CARRIED**

### PROCEDURAL MOTION – CHANGE TO ORDER OF BUSINESS

090/18 **RESOLVED**

**Cr Heins / Cr De Luca**

That the Order of Business be changed so Items 10.1 and 11.1 be brought forward and dealt with immediately.

#### VOTING

**FOR:** Crs Bingham, McTaggart, Heins, Grattan, Philpott, Daley, White, Ferguson, De Luca, and Regan

**AGAINST:** Crs Amon and Harrison

**CARRIED**

**10.1 PLANNING PROPOSAL - 75-79 OLD PITTWATER ROAD & 19 CROSS STREET, BROOKVALE TO PERMIT ADDITIONAL USES AND INCREASE MAXIMUM BUILDING HEIGHT**

091/18 **RESOLVED**

***Cr Heins / Cr Harrison***

That Council reject the Planning Proposal and not submit it to the NSW Department of Planning & Environment for a Gateway Determination for the following reasons:

- A. The proposal is inconsistent with regional and district planning for Brookvale as established by the Greater Sydney Region Plan and the North District Plan.
- B. The proposal is inconsistent with Council's endorsed Draft Brookvale Structure Plan (2017).
- C. There is no need for the planning proposal.
- D. The proposal has not demonstrated strategic merit or site-specific merit.
- E. The Planning Proposal is inconsistent with the following Local Planning Directions:
  - a. 1.1 Business and Industrial Zones
  - b. 3.4 Integrating Land Use and Transport
  - c. 5.10 Implementation of Regional Plans
  - d. 7.1 Implementation of *A Plan for Growing Sydney*.
- F. The proposal is not an appropriate strategic and development outcome, in particular:
  - a. it will introduce a non-conforming (residential) use in the General Industrial zone that is inconsistent with the zone's objectives and would set an undesirable precedent
  - b. it will alienate from industrial use land in an industrial zone, and in doing so fails to protect important employment land and undermines the planned growth of the Brookvale-Dee Why Strategic Centre
  - c. it will introduce new housing in an inappropriate location.
- G. The information provided in support of the proposal does not adequately address the likely impacts of the proposal, particularly with regards to the economic and traffic impacts.

**VOTING**

**FOR:** Unanimous

**CARRIED**

## 11.1 NOTICE OF MOTION NO 23/2018 - OPERATIONS OF ALL SKATE PARKS

*NOTE: Councillors De Luca and Harrison declared a less than significant non-pecuniary interest in relation to this item.*

### PROCEDURAL MOTION – MOTION BE PUT

092/18 **RESOLVED**

**Cr Harrison / Cr Ferguson**

That the motion be now put.

### VOTING

**FOR:** Unanimous

**CARRIED**

**Cr Daley / Cr De Luca**

That:

- A. Council review the operations of all Skate Parks regarding the enforcement of alcohol free zones around the areas where they are located.
- B. Council liaise with Police regarding the enforcement of under-age drinking regulations and the use and dealing of illegal drugs in these areas.

### VOTING

**FOR:** Crs McTaggart, Daley and De Luca

**AGAINST:** Crs Heins, Amon, Grattan, Philpott, White, Harrison, Ferguson, Bingham and Regan

**LOST**

## **7.0 CHIEF EXECUTIVE OFFICER'S DIVISION REPORTS**

### **7.1 ADOPTION OF COMMUNITY STRATEGIC PLAN "SHAPE 2028"**

093/18 **RESOLVED**

***Cr McTaggart / Cr Regan***

That:

- A. Council notes the Community Engagement Report for Stage 3 of the Community Strategic Plan engagement process.
- B. Council endorses the revised Community Strategic Plan.

#### **VOTING**

**FOR:** Unanimous

**CARRIED**

**7.2 DRAFT DELIVERY PROGRAM 2018 - 2021, OPERATIONAL PLAN AND BUDGET 2018/19 AND RESOURCING STRATEGY**

*NOTE 1: Councillor Harrison left the chamber at 8:16pm and returned at 8:18pm.*

*NOTE 2: Councillor Philpott left the chamber at 8:17pm and returned at 8:18pm.*

*NOTE 3: Councillor Heins left the chamber at 8:18pm and returned at 8:22pm.*

*NOTE 4: Councillor Ferguson left the chamber at 8:26pm and returned at 8:27pm.*

**PROCEDURAL MOTION – AMENDMENT BE PUT**

094/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That the amendment be now put.

**VOTING**

**FOR:** Crs McTaggart, Heins, Amon, Daley, White, Harrison, Ferguson, De Luca, Bingham and Regan

**AGAINST:** Crs Grattan and Philpott

**CARRIED**

**AMENDMENT**

***Cr Amon / Cr De Luca***

That:

- A. The following be placed on exhibition for a minimum of 28 days:
  - a. Delivery Program 2018-2021, Operational Plan and Budget 2018/19 (including Fees and Charges 2018/19).
  - b. Resourcing Strategy - Long Term Financial Plan, Workforce Management Plan and Asset Management Strategy.
- B. A special briefing be brought to Councillors prior to community consultation closing to create more aspirational outcomes in improving delivery services.
- C. That the above mentioned documents be amended to include a rates freeze for the financial years ended 30 June 2019 and 30 June 2020.

**VOTING**

**FOR:** Crs Amon, Daley and De Luca

**AGAINST:** Crs McTaggart, Heins, Grattan, Philpott, White, Harrison, Ferguson, Bingham and Regan

**LOST**

**PROCEDURAL MOTION - MOTION BE PUT**

095/18 **RESOLVED**

***Cr Bingham / Cr Regan***

That the motion be now put.

**VOTING**

**FOR:** Crs McTaggart, Heins, Grattan, Philpott, White, Harrison, Ferguson, Bingham and Regan

**AGAINST:** Crs Amon, Daley and De Luca

**CARRIED**

096/18 **RESOLVED**

***Cr Regan / Cr Heins***

That:

- A. The following be placed on exhibition for a minimum of 28 days:
- a. Delivery Program 2018-2021, Operational Plan and Budget 2018/19 (including Fees and Charges 2018/19).
  - b. Resourcing Strategy - Long Term Financial Plan, Workforce Management Plan and Asset Management Strategy.
- B. A special briefing be brought to Councillors prior to community consultation closing to create more aspirational outcomes in improving delivery services.

**VOTING**

**FOR:** Crs McTaggart, Heins, Grattan, Philpott, White, Harrison, Ferguson, Bingham and Regan

**AGAINST:** Crs Amon, Daley and De Luca

**CARRIED**

## 8.0 CUSTOMER & CORPORATE DIVISION REPORTS

### 8.3 POLICY FOR THE APPOINTMENT OF COMMUNITY AND STAKEHOLDER REPRESENTATIVES TO COUNCIL COMMITTEES - OUTCOMES FROM PUBLIC EXHIBITION

*NOTE: Councillor Amon left the chamber at 8:45pm and returned at 8:46pm.*

#### ***Cr McTaggart / Cr De Luca***

That the matter be deferred to the 22 May 2018 Council Meeting.

#### **VOTING**

**FOR:** Crs McTaggart, Daley, Ferguson and De Luca

**AGAINST:** Crs Heins, Amon, Grattan, Philpott, White, Harrison, Bingham and Regan

**LOST**

#### **SUBSEQUENT MOTION**

097/18 **RESOLVED**

#### ***Cr Regan / Cr Bingham***

That:

- A. Council adopt the 'Appointment of Community and Stakeholder Representatives to Council Committees Policy' to replace the former policy 'Appointment of Community & Other Stakeholder Representatives - Council Committees', (former Warringah Council) Policy Number PL755.
- B. Council revoke the policy 'Precinct Community Forums', (former Manly Council) Policy Number P70.

#### **VOTING**

**FOR:** Crs Heins, Amon, Grattan, Philpott, White, Harrison, Ferguson, Bingham and Regan

**AGAINST:** Crs McTaggart, Daley and De Luca

**CARRIED**

### 8.4 COUNCILLOR NOMINATION FOR NORTHERN BEACHES STAKEHOLDER SAFETY ADVISORY COMMITTEE

098/18 **RESOLVED**

#### ***Cr Regan / Cr De Luca***

That Council appoint Councillor Sprott to represent the Frenchs Forest Ward as a member of the Northern Beaches Stakeholder Safety Advisory Committee.

#### **VOTING**

**FOR:** Unanimous

**CARRIED**



## 9.0 ENVIRONMENT & INFRASTRUCTURE DIVISION REPORTS

### 9.2 PUBLIC EXHIBITION OF THE MANLY LAGOON FLOODPLAIN RISK MANAGEMENT STUDY AND PLAN

*NOTE 1: Councillor De Luca left the chamber at 9:02pm.*

*NOTE 2: Councillor Daley left the chamber at 9:03pm.*

*NOTE 3: Councillor Bingham left the chamber at 9:04pm.*

*NOTE 4: Councillor Amon left the chamber at 9:04pm.*

099/18 **RESOLVED**

**Cr Grattan / Cr Ferguson**

That Council place the Draft Manly Lagoon Floodplain Risk Management Study & Plan (March 2018) on public exhibition for a period of at least 28 days.

#### VOTING

**FOR:** Crs Ferguson, Grattan, Harrison, Heins, McTaggart, Philpott, White, and Regan

**ABSENT:** Crs Amon, Daley, De Luca and Bingham

**CARRIED**

### 9.4 MONA VALE SURF LIFE SAVING CLUB FEASIBILITY STUDY

*NOTE 1: Councillor Amon returned to the chamber at 9:05pm.*

*NOTE 2: Councillor Bingham returned to the chamber at 9:06pm.*

*NOTE 3: Councillor Daley returned to the chamber at 9:09pm.*

*NOTE 4: Councillor De Luca returned to the chamber at 9:09pm.*

100/18 **RESOLVED**

**Cr Heins / Cr Regan**

That:

- A. Council, having considered the information and evidence contained in the Feasibility Study, continue to support the project to provide a new surf club building at Mona Vale Beach.
- B. Council approve for the concept plans to be placed on Public Exhibition and to proceed with the next stages of the project.
- C. A proposal come back to Council once the Development Application has been approved and designed with a business case showing how extra funds are sourced.

#### VOTING

**FOR:** Unanimous

**CARRIED**

## 10.0 PLANNING PLACE & COMMUNITY DIVISION REPORTS

### 10.3 PLANNING PROPOSAL - 884-896 PITTWATER ROAD, DEE WHY (MERITON DEVELOPMENT/'SITE B') TO PERMIT RESIDENTIAL ACCOMMODATION ON THE FIRST FLOOR AND MEDICAL & OFFICE PREMISES ON THE GROUND FLOOR

*NOTE: Councillor Grattan left the chamber at 9:14pm and returned at 9:17pm.*

#### 101/18 RESOLVED

#### **Cr Heins / Cr Regan**

That Council reject the Planning Proposal lodged for 884-896 Pittwater Road, Dee Why and not submit it to the NSW Department of Planning & Environment for a Gateway Determination for the following reasons:

- A. The Planning Proposal is inconsistent with the strategic planning direction for Dee Why as established by the recently finalised *A Metropolis of Three Cities and North District Plan* (March 2018).
- B. The Planning Proposal is inconsistent with a previous decision of Council and the Department of Planning rejecting a proposal to allow residential uses at first floor level on the site and a broader range of retail/ commercial uses on the ground floor level on grounds of inconsistency with Ministerial Direction 1.1 - Business and Industrial Zones.
- C. The Planning Proposal has not demonstrated strategic merit or site-specific merit consistent with the NSW Planning & Environment's *Planning Proposals: A guide to preparing planning proposals* (2016).
- D. The Planning Proposal is inconsistent with the following Local Planning Directions:
  - a. 1.1 Business and Industrial Zones
  - b. 3.4 Integrating Land Use and Transport
  - c. 5.10 Implementation of Regional Plans
  - d. 6.3 Site Specific Provisions
  - e. 7.1 Implementation of *A Plan for Growing Sydney*.
- E. The outcome of the Planning Proposal is not considered an appropriate strategic and development outcome because it does not satisfactorily address social and infrastructure impacts associated with the loss of employment floor space, and the potential introduction of up to 80 new residential dwellings within a Key Site of the Dee Why Town Centre.
- F. The Proposal will set a policy precedent by introducing residential development within the first floor level of a Key Site within the Dee Why Town Centre. Given the key economic role that the Dee Why-Brookvale Strategic Centre plays in the local government area and the larger North District, the Proposal has the capacity to undermine the existing and future strategic advantage for the provision of business and employment lands.
- G. The information and studies provided in conjunction with the Planning Proposal do not adequately address the impacts that the proposed changes would have on the surrounding area, particularly with regards to traffic, local infrastructure, and economic impacts.

#### VOTING

**FOR:** Unanimous

#### **CARRIED**

## 10.6 RESPONSE TO COUNCIL RESOLUTION 07/2017 – POKER MACHINE LICENCES

*NOTE 1: Councillor Regan declared a pecuniary interest in relation to this item and left the chamber at 9:24pm.*

*NOTE 2: Councillor Bingham assumed the Chair for this item.*

*NOTE 3: Councillor Heins left the chamber at 9:26pm and returned to the chamber at 9:32pm.*

### 102/18 RESOLVED

**Cr Daley / Cr Bingham**

That:

- A. Council place the Draft Northern Beaches Council Gambling and Poker Machine Harm Management Strategy on public exhibition for a minimum of two (2) months.
- B. The outcomes of the public exhibition are reported back to Council.
- C. Council write to the Honourable Brad Hazzard MP, Rob Stokes MP, Jonathon O’Dea MP encouraging them to respond to Council’s previous correspondence and write to member for Manly James Griffin MP for an update on his representations to the Minister for Gaming and Racing.

### VOTING

**FOR:** Crs McTaggart, Amon, Grattan, Philpott, Daley, White, Ferguson, De Luca and Bingham

**AGAINST:** Crs Heins and Harrison

**ABSENT:** Cr Regan

**CARRIED**

## 11.0 NOTICES OF MOTION

### 11.2 NOTICE OF MOTION NO 24/2018 - RELEASE OF BALLOONS

*NOTE 1: Councillor Regan returned to the chamber at 9:38pm and resumed the Chair.*

*NOTE 2: Councillor Amon left the chamber at 9:41pm.*

103/18 **RESOLVED**

***Cr Ferguson / Cr De Luca***

That Council as part of its single use plastic policy identify measures to stop pollution by gas-filled balloons such as banning if feasible.

#### **VOTING**

**FOR:** Crs McTaggart, Harrison, Heins, Grattan, Philpott, Daley, White, Ferguson, De Luca, Regan and Bingham

**ABSENT:** Cr Amon

**CARRIED**

### 11.3 NOTICE OF MOTION NO 25/2018 - FUTURE USE OF MANLY HOSPITAL SITE

*NOTE: Councillor Amon returned to the chamber at 9:45pm.*

104/18 **RESOLVED**

***Cr Bingham / Cr Grattan***

That:

- A. A detailed report be brought to Council at the May 2018 meeting setting out:
  - a. what controls currently apply to the Manly Hospital Site
  - b. what role Council will play in relation to the redevelopment of the site
  - c. how Council can work with the State Government to manage existing controls.
- B. Council confirms it will consult with the community should there be any changes proposed to the controls.
- C. Council staff, following each meeting of the Project Steering Advisory Committee furnish a precis to be sent to all councillors.

#### **VOTING**

**FOR:** Unanimous

**CARRIED**

## 12.0 QUESTIONS ON NOTICE

*NOTE: In accordance with Council's Code of Meeting Practice clause 1.7(2)(e) responses to Questions on Notice will be included, as soon as practicable in a subsequent business paper for an Ordinary Meeting of Council and included in the minutes.*

### 12.1 QUESTION ON NOTICE NO 04/2018 - MONITORING BY COUNCIL STAFF OF COUNCILLORS' SOCIAL MEDIA PAGES AND EMAIL ACCOUNTS

Submitted by: Councillor Vincent De Luca OAM

#### QUESTION

From time to time, certain Councillors have been contacted by senior staff regarding posts on their social media in order to advise on matters regarding the post, or to direct that changes be made to respective posts.

- A. Which Council Staff are responsible (or which staff usually takes on the responsibility or takes it upon themselves) for monitoring Councillors' social media accounts and who do they report to?
- B. Which Council Staff are responsible for monitoring Councillors' email accounts and who do they report to and on what matters do they report regarding Councillor email accounts?

## 13.0 RESPONSES TO QUESTIONS ON NOTICE

### 13.1 RESPONSE TO QUESTION ON NOTICE 02/2018 - MERITON DEE WHY S94

#### QUESTION

In relation to Meriton's Section 94 Contributions due its developments in the Dee Why Town Centre:

- A. On what date/s did Council (under the Administrator) write to Meriton a Letter of Offer regarding the amount of Section 94 developer contributions Meriton was to pay Council for its developments in the Dee Why Town Centre and what was the amount proposed?
- B. What are the total funds paid to date to Council in Section 94 by Meriton for its developments in the Dee Why Town Centre?
- C. Prior to Meriton's payment of section 94 funds to Council and Council's Letter of Offer, what was the previous calculation of section 94 Funds due for the Meriton (previously Brookfield Multiplex) developments in the Dee Why Town Centre?
- D. Does Council maintain a Section 94 payments Register and if so, what is the total amount paid by Meriton documented on that Register?

#### RESPONSE

- A. In relation to section 94 developer contributions only, Meriton are required to pay development contributions for its development in the Dee Why Town Centre in accordance with the applicable Section 94A Contributions Plan at the time of Development Application (DA) determination. The contribution amounts were calculated based on the cost of works and were imposed in the two development consents as follows:

DA Number	Proposed Development	Contribution Amount
DA2015/0612 – issued 22 December 2015	Drainage and stormwater management works and installation of shoring walls and bulk excavation.	\$67,894
DA2016/0705 – issued 10 May 2017	Construction of a mixed use development comprising retail, commercial and residential uses and a child care centre.	\$1,330,085.04

- B. Based on the two development consents, Council has received a total of \$1,398,186 from Meriton. The total amount comprises the \$68,101 was received on 14 April 2016 associated with DA2015/0612 and includes a CPI adjustment and \$1,330,085.04 was received on 19 May 2017 (no CPI adjustment as it was received within the same month as the development consent was issued).
- C. The contribution amounts levied for the developments in the Dee Why Town Centre were imposed on the development consents and have not changed.
- D. Yes, Council is required to maintain a register in accordance with legislation. The Section 94A Register shows that Meriton has paid a total of \$1,398,186.

### 13.2 RESPONSE TO QUESTION ON NOTICE 03/2018 - SITE A DEE WHY (COUNCIL OWNED SITE)

#### QUESTION

- A. What is Council's current proposal for the development of Site A?
- a) Will the site be nine (9) - storeys?
  - b) Is the site still on the market and do sale provisions require a developer to include provision of community facilities outlined in (a) below and if not, why not?
- B. Is it correct that the site will no longer include provision for:
- a) - a new 2,700 sq/m Library?
  - a Library Square?
  - a 400 sq/m Community facility?
  - 310 additional car parking spaces for free public use?
  - b) can Council please confirm that some or all of the facilities noted above in (a), including a new Dee Why Police Station, are to now be provided at another location(s)?

#### RESPONSE

The sale of "Site A" is not currently underway, noting that Council appointed CBRE to this sale process on 23 June 2015 (Resolution 132/15). This process was put on hold following amalgamation to enable the Meriton construction currently underway to be completed to ensure parking impacts are minimized, and to enable Council to consider its long term needs. A briefing is scheduled for Councillors on this issue.

Council's position on the sale of "Site A" is as per the resolution 053/15 on 24 March 2015:

That:

1. Council 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 on the condition that:
  - a. Council own, as a minimum, the commercial gross floor area needed for the Dee Why Police Local Area Command in the finished development on the site
  - b. Ownership of the proposed link road and associated areas be returned to Council in a suitable form
  - c. The proponent/s in their response provide two pricing alternatives for the provision of either 39 or 200 publicly available car parks.
2. Council, in accordance with Council's Property Acquisition and Disposal – (Negotiation on Purchase Price) Policy GOV – PL 810, grant delegation to the General Manager to commence the disposal process of the land in Item A using an appropriate procurement process.
3. An assessment of the responses received to be reported back to Council for its consideration.

The development envelope has not been specified in Council's resolutions on this matter and would be subject to the relevant planning controls within the relevant Local Environment Plan (LEP) and Development Control Plan (DCP).

## 14.0 CONFIDENTIAL MATTERS - CLOSED SESSION

*NOTE: At 9:57pm the Open Session of Council was adjourned and at 10:00pm the Closed Session of Council commenced with the press and public excluded in accordance with Section 10A(2)(a) and (d) of the Local Government Act, 1993 to consider:*

***Item: 9.3 Church Point Wharf Precinct Upgrade***

- (d) Commercial information of a confidential nature that would, if disclosed;*
- (ii) prejudice the commercial position of the person who supplied it*

***Item: 9.6 Appointment of Directors - Pittwater Environmental Foundation***

- (a) Personnel matters concerning particular individuals (other than councillors)*

### PROCEDURAL MOTION - MOVE INTO CLOSED SESSION OF COUNCIL

105/18 **RESOLVED**

***Cr Bingham / Cr Harrison***

That the Open Session of Council be adjourned and the Closed Session of Council now commence.

#### **VOTING**

**FOR:** Unanimous

***CARRIED***

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**CLOSED SESSION**

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## 15.0 REPORT OF RESOLUTIONS PASSED IN CLOSED SESSION

*NOTE: At 10:38pm the meeting resumed into the Open Session of Council and the Acting Chief Executive Officer reported that the following resolutions were decided in the Closed Session of Council.*

### 9.3 CHURCH POINT WHARF PRECINCT UPGRADE

106/18 **RESOLVED**

***Cr Regan / Cr Ferguson***

That:

- A. Council endorses the reallocation of a portion of Council's road resheeting program to the Cargo Wharf reconstruction project to enable its reconstruction to better meet the needs of the commercial and public enterprises it services.
- B. Council endorses the reallocation of funding from the deferred New Traffic program to the Boardwalk Extension project.
- C. The \$225,000 from the Frenchs Forest project deferred from the 2017/18 New Traffic program be included for delivery in the 2018/19 budget.
- D. The Church Point Aesthetics Advisory Group continue into Stage 2 and Stage 3 of the Church Point precinct implementation.

#### **VOTING**

**FOR:** Crs McTaggart, Philpott, Daley, White, Ferguson, De Luca, Bingham and Regan

**AGAINST:** Crs Heins, Amon, Grattan and Harrison

**CARRIED**

## 9.5 TENDER - CONSTRUCTION SERVICES FOR NORTH NARRABEEN RESERVE SPORTS AMENITIES

*NOTE: This item was resolved by exception prior to Council moving into Closed Session.*

85/18 **RESOLVED**

***Cr Ferguson / Cr Harrison***

That:

- D. Council decline to accept any of the tenders received for RFT 2018/041 – Major Works for Construction Services for North Narrabeen Reserve Sports Amenities Building
- E. Council:
- c) enter into negotiations with TCM Construction Group, Deziign Interiors and Bermagui Constructions with a view to entering into a contract in relation to the subject matter of the tender as they have shown the capability and expertise to be able to deliver the works; and
  - d) decline to:
    - i. invite fresh tenders based on the same or different details
    - ii. invite fresh applications from persons interested in tendering for the proposed contract, and
    - iii. invite fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract, because:
      - The project funding includes grant funding of \$80,000 which is time limited and would be lost due to the time required to re-tender.
- F. Authority be delegated to the Acting Chief Executive Officer to enter into negotiations with TCM Construction Group, Deziign Interiors and Bermagui Constructions with a view to Council entering into a contract in relation to the subject matter of the tender and to execute all necessary documentation to give effect to this resolution.

**RESOLVED BY EXCEPTION**

**9.6 APPOINTMENT OF DIRECTORS - PITTWATER ENVIRONMENTAL FOUNDATION**108/18 **RESOLVED*****Cr Regan / Cr Bingham***

That Council appoint the seven (7) highest scoring applicants as Directors of the Pittwater Environmental Foundation for a period of three (3) years.

- Marita Macrae
- David Poppleton
- Angus Gordon
- Roberta Conroy
- Jo Tulau
- Cathy Griffin
- Conny Harris

**VOTING**

**FOR:** Crs McTaggart, Heins, Grattan, Philpott, White, Harrison, Bingham and Regan

**AGAINST:** Crs Amon, Daley, Ferguson and De Luca

**CARRIED**

**PROCEDURAL MOTION – MOTION OF URGENCY*****Cr De Luca / Cr Ferguson***

That as a matter of urgency, Council considers the following motion:

*That:*

- A. *Council note with concern that the outcome of various legal cases before the Court were recently reported in the Manly Daily, however Council Staff failed to inform Councillors of these case outcomes and the status of these matters, and to date have still not informed Councillors;*
- B. *Council request the CEO to ensure that immediately upon a decision of the Court involving Northern Beaches Council being handed down that all Councillors are promptly informed; and*
- C. *Council request the CEO to ensure in future that within seven (7) days of a decision being handed down by the Court involving Northern Beaches Council that Councillors are advised of the prospect of Appeal or any other action proposed to be taken.*

**VOTING**

**FOR:** Crs McTaggart, Amon, Daley, Ferguson and De Luca

**AGAINST:** Crs Bingham, Harrison, Heins, Grattan, Philpott, White and Regan

**LOST**

**PROCEDURAL MOTION – MOTION OF URGENCY*****Cr De Luca / Cr Ferguson***

That as a matter of urgency, Council considers the following motion:

*That:*

- A. Council note with concern that Northern Beaches Local Planning Panel is meeting during business hours, for example at 1pm tomorrow, thus preventing many residents from attending such meetings and having their say on development applications that affect them and the future of the Northern Beaches*
- B. Council request Councils Chief Executive Officer to ensure that future Northern Beaches Local Planning meetings are held after 6pm at night in order to ensure proper public participation and that residents, applicants and objectors can be properly heard at such meetings that are meant to hear from affected parties*
- C. Council request the Chief Executive Officer to write to the Minister for Planning, the Hon Anthony Roberts MP:
  - a. Requesting that the NSW Government ensure that such Panels are open and accessible to the community and that in order to ensure public participation, meetings should not be held at any Council during business hours as this prevents a large number of the community from participating*
  - b. Requesting that the NSW review the costs of such Panel and either subsidise these panels in view of the State Government appointing members to such Panels or add as an additional fee to development applications in order to pay for such Planning Panels.**
- D. Council requests the Chief Executive Officer to ensure that Agendas and associated documents for the Northern Beaches Local Planning Panel are sent to all Councillors at least three days prior to a respective meeting of the Panel.*

**VOTING**

**FOR:** Crs McTaggart, Amon, Daley, Ferguson and De Luca

**AGAINST:** Crs Bingham, Harrison, Heins, Grattan, Philpott, White and Regan

**LOST**

**PROCEDURAL MOTION – MOTION OF URGENCY**

*NOTE 1: Councillor White declared a significant non-pecuniary interest in relation to this item and left the chamber at 10:51pm.*

*NOTE 2: Councillor Daley declared a less than significant non-pecuniary interest in relation to this item.*

**Cr Amon / Cr De Luca**

That as a matter of urgency, Council considers the following motion:

*That:*

- A. Council notes the announcement of the NSW Government's \$290 million Open Spaces Plan.*
- B. Council notes ongoing action and attempts to develop 2 Macpherson St, Warriewood.*
- C. Council writes to the Premier of NSW and all Northern Beaches State MPs to:
  - a. obtain details of how the plan will operate*
  - b. enquire how Northern Beaches Council might access funding under the plan or how Northern Beaches Council might cause the State Government to invest funding from the Plan on the Northern Beaches*
  - c. express its in principle support to investigate the purchase by Council and/or the State Government of 2 Macpherson Street, Warriewood, under the Open Spaces Plan.**
- D. Following the State Government's response in relation to C, Staff prepare a memorandum to Councillors:
  - a. providing the State Government's response*
  - b. advising whether staff consider it is feasible for Council to access funding under the Plan, given the way it will operate*
  - c. identifying possible sites across the Northern Beaches which might be suitable for purchase under the Open Spaces Plan.**

**VOTING**

**FOR:** Crs McTaggart, Amon, Daley, Ferguson and De Luca

**AGAINST:** Crs Bingham, Heins, Grattan, Philpott, Harrison and Regan

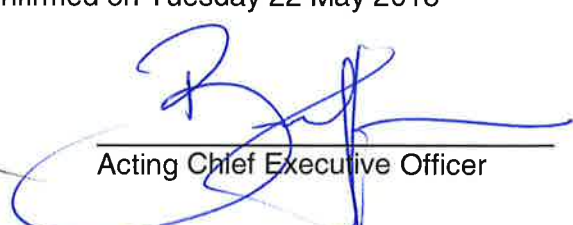
**ABSENT:** Cr White

**LOST**

*The meeting concluded at 10:55pm*

This is the final page of the minutes comprising 29 pages  
numbered 1 to 29 of the Ordinary Council Meeting  
held on Tuesday 17 April 2018 and confirmed on Tuesday 22 May 2018

\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Acting Chief Executive Officer