



northern  
beaches  
council

# MINUTES

## **RECONVENED ORDINARY COUNCIL MEETING**

held at the Civic Centre, Dee Why on

**TUESDAY 6 MARCH 2018**

**Minutes of a reconvened Ordinary Meeting of Council  
held on Tuesday 6 March 2018  
at the Civic Centre, Dee Why  
Commencing at 5:42pm**

**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  
Stuart Sprott  
David Walton  
Natalie Warren  
Ian White

**Officers**

Mark Ferguson	Chief Executive Officer
Helen Lever	General Manager Customer & Corporate
Ben Taylor	General Manager Environment & Infrastructure
David Kerr	General Manager Planning Place & Community
Eskil Julliard	General Counsel
Neil Williamson	Executive Manager Environmental Compliance
Sonya Gallery	Executive Manager Governance & Risk
Tracey Bennett	Governance Manager
Anna Moore	Change/Training Manager
Jasmine Evans	Governance Officer
Don Morales	Information Management Technology Officer
Sylwia Stafford	Information Management Technology Officer

**Notes**

The meeting commenced at 5:42pm, moved into closed session at 6:34pm, resumed in open session at 8:25pm and concluded at 8:30pm.

*NOTE: The Mayor acknowledged the passing of Dr Mary Newlinds.*

## **1.0 APOLOGIES**

Nil

## **2.0 DECLARATION OF PECUNIARY INTEREST AND CONFLICTS OF INTEREST**

Councillor Bingham declared a less than significant non pecuniary interest for item 8.2 Notice of Motion No 15/2018 - Proposed Independent Investigation into Council's Handling of Contracts Relating to Whistler Street Carpark, Manly Oval and Associated Issues. Councillor Bingham elected to remain in the meeting and take part in the discussion and voting on this item. The reason provided by Cr Bingham was:

*"I am involved in a personal legal matter in relation to my role as a former Councillor of Manly Council."*

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

Nil

## **4.0 CUSTOMER & CORPORATE DIVISION REPORTS**

Nil

## **5.0 ENVIRONMENT & INFRASTRUCTURE DIVISION REPORTS**

Nil

## **6.0 PLANNING PLACE & COMMUNITY DIVISION REPORTS**

Nil

## 7.0 NOTICES OF MOTION

### 7.1 NOTICE OF MOTION NO 14/2018 - EAST ESPLANADE

#### MOTION

##### ***Cr Bingham / Cr Grattan***

That Council:

- A. Review the 'Alcohol Prohibited Area' at East Esplanade as an Alcohol-Prohibited Area from 8.00pm to 8.00am to enable Council and Police to enforce the zoning.
- B. Investigate the deployment of night rangers or alternative measures to deal with noise issues and enforcement of Alcohol Prohibited Areas.
- C. Consider other strategies to clear the area of illegal drinkers.
- D. For the matter to be referred to the Northern Beaches Safety Advisory Committee for ongoing monitoring.

#### AMENDMENT

##### ***Cr Daley / Cr De Luca***

That Council:

- A. Review the 'Alcohol Prohibited Area' at East Esplanade as an Alcohol-Prohibited Area (24 hours a day / 7 days a week).
- B. Investigate the deployment of night rangers or alternative measures to deal with noise issues and enforcement of Alcohol Prohibited Areas.
- C. Consider other strategies to clear the area of illegal drinkers.
- D. For the matter to be referred to the Northern Beaches Safety Advisory Committee for ongoing monitoring.

#### VOTING

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

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

#### LOST

#### AMENDMENT

##### ***Cr Sprott / Cr De Luca***

That the matter be deferred to the next Ordinary Council meeting.

#### VOTING

**FOR:** Crs Amon, Daley, De Luca, Ferguson, Harrison, McTaggart, Sprott, Warren and White

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

#### CARRIED

***The amendment was carried and became the motion***

045/18 **RESOLVED**

**Cr Sprott / Cr De Luca**

That the matter be deferred to the next Ordinary Council meeting.

**VOTING**

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

**AGAINST:** Crs Bingham, Grattan and Philpott

**CARRIED**

## 8.0 CONFIDENTIAL MATTERS – CLOSED SESSION

*NOTE 1: Councillor Heins left the chamber at 6:30pm and returned at 6:35pm.*

*NOTE 2: Councillor Harrison left the chamber at 6:31pm and returned at 6:35pm.*

*NOTE 3: Councillor Warren left the chamber at 6:31pm and returned at 6:35pm.*

046/18 **RESOLVED**

**Cr Regan / Cr Ferguson**

That:

A. In accordance with the requirements of Section 10A of the *Local Government Act 1993* as addressed below, Council resolve to close the meeting to the public to consider and discuss:

- a Item 8.1 Mayoral Minute No 03/2018 - This report discusses personnel matters concerning particular individuals (other than councillors) and the disclosure of this matter in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making [Part 1. 10A(2)(a) Local Government Act 1993].
- b Item 8.2 Notice of Motion No 15/2018 - Proposed Independent Investigation into Council's Handling of Contracts Relating to Whistler Street Carpark, Manly Oval and Associated Issues on the basis that it involves the receipt and discussion of advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege [Part 1. 10A(2)(g) Local Government Act 1993].

This report discusses advice concerning litigation and advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and the disclosure of this matter in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making.

B. 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:** Crs Amon, Bingham, Daley, De Luca, Ferguson, Grattan, Harrison, McTaggart, Philpott, Regan, Sprott, Walton, Warren and White

**ABSENT:** Cr Heins

**CARRIED**

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**CLOSED SESSION**

*NOTE 1: Council moved into closed session at 6:34pm and resumed into open session at 8:25pm.*

*NOTE 2: Mark Ferguson, Ben Taylor, Helen Lever, David Kerr, Tracey Bennett, Anna Moore, Jasmine Evans, Sylwia Stafford and Don Morales left the chamber at 7:35pm whilst item 8.1 was considered and returned at 8:25pm.*

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**9.0 REPORT OF RESOLUTIONS PASSED IN CLOSED SESSION****8.2 NOTICE OF MOTION NO 15/2018 - PROPOSED INDEPENDENT INVESTIGATION INTO COUNCIL'S HANDLING OF CONTRACTS RELATING TO WHISTLER STREET CARPARK, MANLY OVAL AND ASSOCIATED ISSUES**

048/18 **RESOLVED**

***Cr White / Cr Harrison***

That the matter be deferred until after the legal proceedings of these matters are concluded.

**VOTING**

**FOR:** Crs Amon, Daley, De Luca, Ferguson, Grattan, Harrison, Heins, McTaggart, Philpott, Sprott, Walton, Warren and White

**AGAINST:** Crs Bingham and Regan

**CARRIED**

## 8.1 MAYORAL MINUTE NO 03/2018 – URGENT PERSONNEL MATTER

*NOTE : Councillor Ferguson left the chamber at 7:55pm and returned at 8:00pm.*

049/18 **RESOLVED**

**Cr Regan**

That:

- A. Council accepts the Chief Executive Officer's offer to resign as outlined in his letter of 2 March 2018, subject to a Deed of Settlement (Deed).
- B. The Mayor, Deputy Mayor and one other Councillor be authorised to undertake negotiations and finalise the Deed.
- C. To give effect to the above, the Mayor, Deputy Mayor and Councillor appointed under (B) be authorised to seek further assistance from Local Government NSW and/or other legal representative(s) of the Council.
- D. Council acknowledges the service of the Chief Executive Officer and formally thanks Mr Ferguson for his contributions as the former General Manager of Pittwater Council from September 2005 to May 2016 and then as the Interim General Manager and Chief Executive Officer from May 2016 to March 2018.
- E. Funding to be made available from existing operational budgets.
- F. A joint statement by the Mayor and CEO will be provided to the media and the community regarding the outcome of the decision as soon as possible.
- G. Upon the resignation taking effect, Council appoint as Acting Chief Executive Officer pursuant to Sections 336 and 351 of the *Local Government Act* 1993, to be rotated on a monthly basis, each of the three current General Managers, Mr David Kerr, Mr Ben Taylor and Ms Helen Lever, until the new Chief Executive Officer is appointed.
- H. Following the finalisation of the Deed:
  - a. Council undertakes a procurement process to select a suitable entity to recruit a new Chief Executive Officer for Council.
  - b. A Chief Executive Officer Selection Panel, comprising the Mayor plus five Councillors, be appointed to oversee the formal recruitment process with advice from the Executive Manager of Human Resources.
  - c. The CEO Selection Panel's recommended candidate be reported to Council for endorsement.

### VOTING

**FOR:** Crs Bingham, Grattan, Harrison, Heins, Philpott, Regan, Sprott, Walton, Warren and White

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

**ABSENT:** Cr Ferguson

**CARRIED**

**SUPPLEMENTARY MOTION**

050/18 **RESOLVED**

**Cr Regan / Cr Bingham**

That the councillors authorised to undertake negotiations and finalise the Deed be: the Mayor, Deputy Mayor and Cr Amon.

**VOTING**

**FOR:** Unanimous

**CARRIED**

**SUPPLEMENTARY MOTION**

051/18 **RESOLVED**

**Cr Regan / Cr Bingham**

That the Chief Executive Officer Selection Panel comprises the Mayor, Cr Bingham, Cr Walton, Cr Ferguson, Cr Heins and Cr Amon to oversee the formal recruitment process with advice from the Executive Manager of Human Resources.

**VOTING**

**FOR:** Unanimous

**CARRIED**

**SUPPLEMENTARY MOTION**

052/18 **RESOLVED**

**Cr Regan / Cr Bingham**

That upon the resignation taking effect, Council appoint as Acting Chief Executive Officer pursuant to sections 336 and 351 of the Local Government Act 1993 the following (in alphabetical order): Mr David Kerr from: the date the resignation takes effect to 15 April 2018; Ms Helen Lever from 16 April 2018 to 13 May 2018; and Mr Ben Taylor from 14 May 2018 to 14 June 2018.

**VOTING**

**FOR:** Crs Amon, Bingham, Daley, Ferguson, Grattan, Harrison, Heins, McTaggart, Philpott, Regan, Spratt, Walton, Warren and White

**AGAINST:** Cr De Luca

**CARRIED**

*The meeting concluded at 8:30pm*

This is the final page of the minutes comprising 8 pages  
numbered 1 to 8 of the reconvened Ordinary Council Meeting  
held on Tuesday 6 March 2018 and confirmed on Tuesday 27 March 2018

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Mayor

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Chief Executive Officer