



northern
beaches
council

MINUTES

EXTRAORDINARY COUNCIL MEETING

held at Manly Town Hall, Manly on

TUESDAY 8 AUGUST 2017

(2017/11)

**Minutes of an Extraordinary Meeting of Council
held on Tuesday 8 August 2017
at Manly Town Hall, Manly
Commencing at 6.32pm**

Attendance:

Members

Dick Persson, AM – Administrator

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
Campbell Pfeiffer	Executive Manager Property
Steve Lawler	Executive Manager Parks & Recreation
Natasha Schultz	Executive Manager Waste Management & Cleansing
Andrew Pigott	Executive Manager Strategic & Place Planning
Tracey Bennett	Manager Governance
Sonya Gallery	Executive Manager Governance & Risk
Lynne Jess	Secretariat Officer
Jasmine Evans	Governance Support Officer
Sylwia Stafford	IM&T Support Officer

NOTES

The meeting commenced at 6.32pm and concluded at 8.10pm

1.0 APOLOGIES

Nil

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Nil

3.0 DECLARATION OF PECUNIARY INTEREST AND CONFLICTS OF INTEREST

Nil

4.0 PUBLIC FORUM

Nil

PROCEDURAL MOTION - MOTION TO PROPOSE BUSINESS AT EXTRAORDINARY MEETING

170/17 RESOLVED

D Persson

That under the provisions of Clause 1.4(2) of the Northern Beaches Council Code of Meeting Practice the Administrator's Minute Item 4.2 be included in the order of business for the Extraordinary Meeting as it is a matter of great urgency.

4.0 ADMINISTRATOR'S MINUTES

4.1 ADMINISTRATOR MINUTE NO 12/2017 - CULTURAL TRUST BUSINESS CASE

Note: Michael Regan and Kylie Ferguson addressed Council on this item.

171/17 RESOLVED

D Persson

That the Chief Executive Officer be requested to:

- A. Prepare a detailed business case for the establishment of a large indoor performance space within the Mona Vale Town Centre.
- B. Establish a Charitable Trust for the purpose of receiving funds toward the construction and operation of a Mona Vale Performance space.

4.2 ADMINISTRATOR MINUTE NO 13/17 – ACQUISITION OF THE PASADENA AT CHURCH POINT

172/17 RESOLVED

D Persson

That the Chief Executive Officer:

- A. Commence negotiations to purchase the Pasadena site (Lot 142 DP 752046).
- B. Be authorised to acquire the Pasadena site (Lot 142 DP 752046) should negotiations not be successful by compulsory process, including the preparation and lodgement of an application to the Minister and Governor for the proposed acquisition of the subject land under the provisions of the Local Government Act 1993.
- C. Upon purchase of the land, give public notice in accordance with the Local Government Act 1993 of the proposal that the land be classified as Community land under the Local Government Act 1993.
- D. Develop a Masterplan for the Pasadena site and adjacent land to ensure maximum public benefit into the future, including converting the majority of the site to public open space and the provision of suitable building/s to accentuate public use of the area.
- E. Be authorised to do all things necessary in order to give effect to this resolution.

5.0 CHIEF EXECUTIVE OFFICER'S DIVISION REPORTS

5.1 STATUS OF THE DEVELOPMENT DEEDS FOR MANLY OVAL AND WHISTLER STREET CARPARK

NOTE: Candy Bingham addressed Council on this item.

173/17 RESOLVED

D Persson

That Council notes that Built Development (Manly) Pty Limited and Athas Holdings Pty Limited terminated the Negotiations Deed in respect of Whistler Street project.

6.0 CUSTOMER & CORPORATE DIVISION REPORTS

6.1 POWER OF ATTORNEY TO CHIEF EXECUTIVE OFFICER AND GENERAL MANAGERS

174/17 RESOLVED

D Persson

That Council:

- A. Revoke Power of Attorney Book 4716 No 740 which operates from 10 November 2016, and give any necessary notice of revocation to the relevant Attorneys.
- B. Affix the Common Seal of Council to the Revocation of Power of Attorney.
- C. Grant Power of Attorney to Mr Mark Ferguson, Chief Executive Officer; Mr David Kerr, General Manager Planning, Place & Community; Ms Helen Lever, General Manager Customer & Corporate; and Mr Benjamin Taylor, General Manager Environment & Infrastructure, effective on and from 9 August 2017 to execute documents, dealings and instruments relating to the matter detailed in the draft instrument attached to this report.

- D. Affix the Common Seal of Council to the Power of Attorney.
- E. Attend to registration of the new Power of Attorney.

7.0 ENVIRONMENT & INFRASTRUCTURE DIVISION REPORTS

PROCEDURAL MOTION - CHANGE TO ORDER OF BUSINESS

175/17 RESOLVED

D PERSSON

THAT THE ORDER OF BUSINESS BE CHANGED SO ITEM 7.5 DEVELOPMENT OF A SKATEPARK AT TERREY HILLS OVAL, TERREY HILLS BE BROUGHT FORWARD AND DEALT WITH IMMEDIATELY.

7.5 DEVELOPMENT OF A SKATEPARK AT TERREY HILLS OVAL, TERREY HILLS

NOTE: TONY PLUNKET AND MATTHEW PLUNKET ADDRESSED COUNCIL ON THIS ITEM.

176/17 RESOLVED

D PERSSON

THAT COUNCIL:

- A. PROCEED WITH THE DEVELOPMENT OF A SKATEPARK AT TERREY HILLS OVAL
- B. ALLOCATE \$200,000 FROM THE MERGER SAVINGS FUNDED YOUTH FRIENDLY SPACES PROGRAM FOR THE PROJECT IN 2017/2018.

7.1 TENDER FOR COUNCIL WASTE PROCESSING AND RESOURCE RECOVERY

177/17 RESOLVED

D Persson

That Council:

1. endorses the position negotiated between Council, Mosman Municipal Council, Kimbriki Environmental Enterprises Pty Ltd (KEE) and the Preferred Tenderer (Negotiated Position) in respect of the Project;
2. enters the proposed contracts in respect of the Project with the relevant parties which reflect the Negotiated Position;
3. notes:
 - a) the Project Steering Committee's resolution of on about 20 July 2017 that requires Office of Local Government and Project Review Committee's approval and positive assessment of the Project; and
 - b) given the advice of the Office of Local Government and the Project Review Committee that the Project is no longer a public private partnership, that section 55 of the *Local Government Act 1993* (Act) applies to the deliver

Project;

4. resolves pursuant to section 55(3)(i) of the Act that a satisfactory result would not be achieved by inviting tenders for the provision of waste services because of extenuating circumstances by reason of the following:
 - a) Council owns 96.16% of shares in KEE and all other shares in KEE are owned by Mosman Municipal Council;
 - b) due to the altered nature of the Project reflected in the Negotiated Position, the Project Review Committee has advised that the Project would no longer be carried out under a public private partnership;
 - c) the Preferred Tenderer has the experience, expertise and equipment to satisfy Council's service requirements;
 - d) an open tender process was conducted by KEE for Council and Mosman Municipal Council in respect of the Project on the basis that the Project is a public private partnership within the meaning of the Act; and
 - e) Council has to take the necessary steps to secure long term waste processing services;
5. subject to receipt by Council of a request by KEE to enter into the Contracts to which KEE is a party, as a shareholder and for the purpose of clause 7.4(d) of the Shareholder Agreement between the former Warringah Council, Manly Council and Pittwater Councils, and Mosman Municipal Council and KEE dated 1 July 2009 which established KEE, provides its consent and authorises KEE to enter into the Contracts to which KEE is a party;
6. exercises its second extension option to extend the current waste disposal contracts with SUEZ Recycling & Recovery Pty Ltd for a period of twelve (12) months each to expire on 30 June 2019; and
7. authorises the Chief Executive Officer to do all things necessary to give effect to any resolution made by the Council in respect of the Project including, without limiting the generality of the foregoing, to execute the Contracts to which Council is a party and the extension of the current waste disposal contracts with SUEZ Recycling & Recovery Pty Ltd.

7.2 IVANHOE PARK BOTANIC GARDEN LANDSCAPE MASTERPLAN

NOTE: Sandy Hudspeth and Roger Freney addressed Council on this item.

178/17 **RESOLVED**

D Persson

That Council adopt the Ivanhoe Park Botanic Gardens Landscape Masterplan.

7.3 PALM BEACH (SOUTH) LANDSCAPE MASTERPLAN

179/17 **RESOLVED**

D Persson

That Council adopt the Palm Beach (South) Landscape Masterplan.

7.4 UNLEASHED DOG EXERCISE AREAS, OUTCOMES OF COMMUNITY ENGAGEMENT MAY AND JUNE 2017

NOTE: Mitch Geddes, Craig Watkinson, Bruce Denley and John Geber addressed Council on this item.

180/17 **RESOLVED**

D Persson

That:

- A. Avalon Beach Reserve (north western section) is declared as an unleashed dog exercise area on a trial basis for 6 months and that a review of the trial be the subject of a future report to Council. Temporary fencing, signage and other requirements are to be installed and key stakeholders and nearby residents appropriately notified before implementation.
- B. Lagoon Reserve is retained as an unleashed dog exercise area and
 - a) Restrictions apply, in the area from the western side of the playground to the eastern most part of the reserve, on weekends (Saturday and Sunday) and public holidays as follows:
 - Friday 9pm to Sunday 9pm (on leash)
 - Night before public holiday from 9pm to 9pm on the last day of the public holiday/ holidays (on leash)
 - b) The timed restrictions are to be implemented following installation of signs and other required infrastructure and appropriate notification of key stakeholders and nearby residents.
 - c) A facility plan will be developed and implemented in response to operational issues raised during this community engagement including for signage. This plan is to be developed with key stakeholders and nearby residents.
 - d) An audit and analysis of the use of Lagoon Reserve is undertaken in 2017/18 and the findings to be considered for relevant policies and the facility plan.
 - e) Council's education and advice initiatives which support responsible dog ownership have a focus on Lagoon Reserve in 2017/18.
- C. The Warriewood Valley Detention Basin, Munnumba Reserve and South Creek Reserve are not supported as unleashed dog exercise areas.
- D. Community engagement is to be carried out with key stakeholders including the Manly Dogs and Pittwater Unleashed groups about upgrades to existing unleashed dog exercise areas and other initiatives to be undertaken in 2017/18.

7.6 ADOPTION OF AMENDMENTS TO DEVELOPMENT CONTROL PLANS FOR TREES AND BUSHLAND ON PRIVATE PROPERTY

181/17 **RESOLVED**

D Persson

That Council:

- A. Adopt modifications to the Manly Development Control Plan (2013) as outlined in Attachment 1: Detailed DCP Amendments for Trees and Bushland.
- B. Adopt modifications to the Warringah Development Control Plan (2011) as outlined in Attachment 1: Detailed DCP Amendments for Trees and Bushland.
- C. Adopt modifications to the Pittwater 21 Development Control Plan (2014) as outlined in Attachment 1: Detailed DCP Amendments for Trees and Bushland.

7.7 PARKES ROAD RESERVE (CROWN RESERVE R7495 - LOT 7051 DP 1051205) - PARKES ROAD, COLLAROY PLATEAU - PROPOSED EASEMENT TO DRAIN WATER IN FAVOUR OF 136 ANZAC AVENUE COLLAROY PLATEAU (LOT 1 DP 235748)

182/17 **RESOLVED**

D Persson

That:

- A. Council (as Crown Reserve Trust Manager) authorises an application to Department of Industry - Lands under section 102 of the Crown Lands Act 1989 (the Act) for consent of the responsible Minister under the Act to the granting of an Easement to Drain Water 1.2 metres wide by underground infrastructure within Crown Reserve Lot 7051 DP 1051205 and associated Positive Covenant.
- B. Subject to Council receiving Minister's consent referred to in item A above, Council (as Crown Reserve Trust Manager) authorise the Easement to Drain Water and associated Positive Covenant referred to in item A above for an amount in accordance with Council's adopted Fees & Charges (subject to the responsible Minister's requirements and final negotiations with the applicant, generally on terms and conditions included in the draft Section 88B Instrument included in this report as Attachment 2).
- C. All costs associated with the granting of the proposed Easement and associated Positive Covenant as referred to in item B of this recommendation, including but not limited to, Council's legal costs, GST if applicable, document registration and reinstatement of land post authorised drainage works, be funded by the applicant.
- D. Council (as Crown Reserve Trust Manager) authorises the Chief Executive Officer to negotiate and execute all documentation necessary in order to give effect to this resolution.

7.8 GRAHAM STREET CLONTARF - PROPOSED ROAD RESERVE CLOSURE AND SALE OF LAND ADJOINING 3 HARBOUR VIEW STREET CLONTARF

183/17 **RESOLVED**

D Persson

That Council authorise:

- A. An application to NSW Department of Industry – Lands for road reserve closure under the provisions of the Roads Act 1993 for the road identified in this report being part Graham Street, Clontarf adjoining 3 Harbour View Street, Clontarf (Lot 101 DP 601939).
- B. Disposal of the subject land in accordance with Council's Road Reserve, Streetscape Management and Property Management Policy (purchase price subject to independent valuation) and the sale is subject to the land being consolidated with the adjoining land at 3 Harbour View Street, Clontarf (Lot 101 DP 601939).
- C. The Chief Executive Officer or the authorised delegate to execute all documentation necessary in order to give effect to this resolution.
- D. All costs associated with the proposal referred to in this resolution, including but not limited to, Council's legal costs and GST if applicable, be funded by the applicant.

7.9 ACQUISITION OF PROPERTY AT BOONDAH ROAD WARRIEWOOD AS RECOMMENDED IN WARRIEWOOD VALLEY SECTION 94 CONTRIBUTIONS PLAN

184/17 **RESOLVED**

D Persson

That Council:

- A. Authorise the purchase of 3 Boondah Road, Warriewood NSW 2102 up to the value of the independent market valuation.
- B. Note the independent market appraisal of the land as outlined in the Confidential Memo attached to this report.
- C. Give public notice in accordance with the Local Government Act 1993 of the proposal that the land be classified as Community land under the Local Government Act 1993.
- D. Authorise the Chief Executive Officer to do all things necessary in order to give effect to this resolution.

7.10 WALK AVALON - PEDESTRIAN ACCESS AND MOBILITY PLAN

185/17 **RESOLVED**

D Persson

That Council:

- A. Adopt the Walk Avalon – Pedestrian Access and Mobility Plan and commence programming of works in future operational budgets.
- B. Work with the community to deliver infrastructure outcomes detailed in the Walk Avalon – Pedestrian Access and Mobility Plan.

7.11 2018 LICENCE FOR THE USE OF BROOKVALE OVAL BY THE MANLY WARRINGAH SEA EAGLES

186/17 **RESOLVED**

D Persson

That Council:

- A. Approve, subject to compliance with the requirements of the Local Government Act 1993, entering into a licence with the Manly Warringah Sea Eagles Ltd for the use of Brookvale Oval for a period of 1 year.
- B. Authorise the Chief Executive Officer or the authorised delegate to execute all documentation necessary in order to give effect to this resolution.

8.0 PLANNING PLACE & COMMUNITY DIVISION REPORTS

8.1 DRAFT BROOKVALE STRUCTURE PLAN

NOTE: Brian Halstead addressed Council on this item.

187/17 **RESOLVED**

D Persson

That Council:

- A. Endorse the Draft Brookvale Structure Plan for the purposes of public exhibition.
- B. Exhibit the Draft Brookvale Structure Plan for a period of 6 weeks.

The meeting concluded at 8.10pm

This is the final page of the minutes comprising 11 pages
numbered 1 to 11 of the Extraordinary Council Meeting
held on Tuesday 8 August 2017 and confirmed on Tuesday 22 August 2017

Administrator

Chief Executive Officer