

MINUTES OF THE WAVERLEY
COUNCIL MEETING HELD AT THE
WAVERLEY COUNCIL CHAMBERS
ON TUESDAY, 11 DECEMBER 2012

PRESENT

Councillor Betts (Mayor) (Chair)
Councillors Burrill, Clayton, Cusack, Goltsman, Guttman-Jones, Kanak, Kay,
Mouroukas and Strewe.

At the commencement of proceedings at 7.01pm those present were as listed above.

**1211.1 STATEMENT OF AFFIRMATION & ACKNOWLEDGMENT OF
INDIGENOUS HERITAGE**

The Mayor read the following Opening Prayer and Acknowledgment of Indigenous Heritage.

“God we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.

Waverley Council respectfully acknowledges our indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area.”

1211.2 LEAVES OF ABSENCE AND APOLOGIES

**1211.2.1
Leave of Absence**

Cr Wakefield was previously granted a leave of absence by Council for this meeting.

**1211.2.2
Apologies**

Apologies were received and accepted from Cr Masselos.

1211.3 DECLARATIONS OF INTEREST

The Chair called for any Declarations of Interests and the following were received:

1. Cr Strewe declared a less than significant non pecuniary interest in Item 1212.11.1 – Bronte Public School Mural (A05/1643) and informed the meeting that she lives in close proximity to the school.
2. Cr Strewe declared a less than significant non pecuniary interest in Item 1212.12.5 – Dog off Leash Areas and Associated Issues with Compliance (A11/0440-02 and A02/0287) and informed the meeting that she is related to one of the speakers.
3. Cr Kanak declared a less than significant non pecuniary interest in Item 1212.12.8 – Lease Bondi Beach Foods Pty Ltd, the Bucket List, Shop 1 Bondi Pavilion and informed the meeting that he knows the Applicant.
4. Cr Mouroukas declared a pecuniary interest in Item 1212.12.11 – Additional fees for Development Applications that are heritage-related or subjected to coastal inundation (A12/0193) and informed the meeting that he owns a heritage home and that he will vacate the Chamber during the discussion and vote on this item.

1211.4 CONFIRMATION OF MINUTES

1212.4.1

Council Meeting – 20 November 2012

MOTION / DECISION (Betts / Kay)

That the Minutes of the Council Meeting of 20 November 2012 be received and noted and that such Minutes be confirmed as a true record of the proceedings of that meeting, subject to Item 1211.12.14 – Public Art Committee Terms of Reference (A03/0161) – Clause 2 – Objectives of the Waverley Public Art Committee being amended to read as follows:

- *To encourage community participation and consultation in the development of public art and visual art processes and works.*
- *To develop public art and visual art that will reflect the local identity, diversity, values of Waverley and that will promote and preserve sites of significant cultural and natural heritage.*
- *To support public art and visual art in Waverley and encourage creative and innovative design in the built environment that enhances and contributes to the provision of quality facilities and amenities.*
- *To strengthen and enhance the environment for arts and creative enterprises in Waverley.*
- *To develop and review relevant policies and strategies, and integrate art policy content into relevant Council processes, policies and documents*
- *To ensure that public art and visual art processes and works are managed and maintained in a planned and professional manner*
- *To assess applications or proposals related to public art and visual art or the Artists In Residence program*

- *To source funding for public art works including sponsorships and philanthropic opportunities.*
- *To develop a framework that enables and encourages the private and commercial sector to contribute to development and investment in public art and visual art in Waverley.*
- *To provide assessment and advisory for possible inclusions of public art to the Public Works program*
- *Explore possibilities and advocate for the inclusion of public art and visual art and interpretation information in public projects and in future Council budgets*
- *To provide advisory for public art or visual art elements to be incorporated into private sector development projects.*

1212.5 ADDRESSES TO COUNCIL BY MEMBERS OF THE PUBLIC

1. G. Pearce – Item 1212.12.5 – Dog off Leash Areas and Associated Issues with Compliance (A11/0440-02 and A02/0287).
2. G. Stevens – Item 1212.12.5 – Dog off Leash Areas and Associated Issues with Compliance (A11/0440-02 and A02/0287).
3. R. Sassoon – Item 1212.12.5 – Dog off Leash Areas and Associated Issues with Compliance (A11/0440-02 and A02/0287).
4. D. Gathy – Item 1212.12.5 – Dog off Leash Areas and Associated Issues with Compliance (A11/0440-02 and A02/0287).
5. S. Lightfoot– Item 1212.12.10 – Visioning for Bronte’s Macpherson and St Thomas Street Neighbourhood Centre (which includes Bronte RSL) – Information Report (A12/0220-02).
6. M. Redmond – Item 1212.12.10 – Visioning for Bronte’s Macpherson and St Thomas Street Neighbourhood Centre (which includes Bronte RSL) – Information Report (A12/0220-02).
7. S. Sanders – Item 1212.12.10 – Visioning for Bronte’s Macpherson and St Thomas Street Neighbourhood Centre (which includes Bronte RSL) – Information Report (A12/0220-02).
8. A resident of Bondi Junction – Item 1212.13.3 – Waverley Traffic Committee Meeting Minutes – 6 December 2012 - Clause WTC-1212.C1 – Lawson Lane, Bondi Junction – Parking Opposite Driveways (A02/0637-02).
9. V. Brunninghausen (Petitioner) – Item 1212.15.3 – 180-186 Campbell Parade, Bondi Beach – 24 Hour supermarket and Liquor Store (DA-433/2012).

1212.6 MAYORAL MINUTE

1212.6.1

Margaret Whitlam Recreation Centre Award (A08/0929-08)

MOTION / DECISION (Betts)

That Council congratulate National Buildplan on the Margaret Whitlam Recreation Centre being awarded the most prestigious award of the best commercial construction for a sporting facility to the value of \$50m and give a big thank you to all the Council staff that were involved in the design and construction of the centre.

BACKGROUND:

The Margaret Whitlam Recreation Centre had been recognised by the NSW building Industry by being awarded the 2012 Winner for the best design and constructed Sporting Facility up to the value of \$50 million by the NSW Masters Builders Association.

At the NSW Master Builders Association gala black tie award dinner attended by over 900 industry participants, the Margaret Whitlam Recreation Centre was recognised as the very best in commercial construction in 2012 for sporting facilities to the value of \$50M.

The MBA Excellence in Construction Awards are the commercial building industry's most prestigious awards, attracting entries from the state's largest commercial, industrial and civil contractors in a range of categories and price divisions.

The project was entered by National Buildplan and was judged by a panel of esteemed industry experts, these Excellence in Construction Awards are highly contested by the major contractors operating in New South Wales.

Planning for the centre began in 2007 with extensive community consultation. The building was designed by McPhee Architects to Council's vision for a multipurpose community recreation facility integrated with the historic Waverley Park. Its ingenious design complements the existing park landscape with a partially "buried" green roof which provides views to the ocean.

Built from concrete containing 20% recycled material, steel and glass, and partly buried under flowing green rooves, the centre incorporates passive design elements that will contribute to energy-efficient operation year-round.

This award highlights Council's great achievement in building such a great facility for the community.

Congratulations to all of the staff and Councillors involved in the project, it is an award to be shared by all at Waverley.

1212.6.2

Ramp entry signage to reinforce the “No Smoking” ban on Waverley beaches (A04/0512)

MOTION / DECISION (Betts)

That Council:

1. Enhance existing spray painted “No Smoking” stencils at the top of each ramp entry point to all Waverley beaches with the Australian Standard “No Smoking” signage.
2. Continue to support the “No Smoking” ban on Waverley beaches.
3. Commends and thanks the Bondi Beach Responsible Runners for voluntarily removing cigarette butts from Bondi Beach and presenting the statistical evidence to Council.

BACKGROUND:

Council has banned smoking on Waverley beaches since 2004, with the capacity for enforcement in place since November 2005.

For a number of years, the “Don’t be a Tosser” campaign has been delivered on Waverley Beaches in conjunction with the “Lovin’ My Bondi Summer” campaign, focusing on various types of litter including cigarette butts, plastic bottles, and bags. This has included education, enforcement, permanent water stations, and free reusable bottles and bags.

In 2008, litter audits conducted by Council showed that cigarette litter accounted for 34.2% of litter found on Bondi Beach. Despite an initial decline in cigarette litter several years ago, the issue has started to re-emerge with many people not knowing about the ban. Recent clean ups by the Responsible Runners community group at Bondi have removed an average of 3000 cigarette butts from the sand each month that would otherwise take 12 years to decompose.

Clear and concise on-site signage is one of the most important and cost effective ways to communicate the ban to residents and visitors alike.

1212.6.3

Independent Local Government Review Panel – Local Government Reform – Resource Sharing with Woollahra and Randwick Councils (A12/0619)

MOTION / DECISION (Betts)

That Council:

1. Note the release of the Local Government Independent Review Panel’s paper ‘Case for Sustainable Change’ and the emphasis on significant consolidation of Sydney Councils.
2. Resolve that Waverley should commence discussions with Woollahra and Randwick Councils regarding the local government reform process including possible resource sharing, joint tendering, and potential boundary adjustments, identifying benefits and

drawbacks whilst ensuring that any changes that take place protect the integrity of Waverley's financial position and product delivery to its residents.

3. Council states clearly its opposition to forced amalgamations by this or any State Government without demonstrated benefits to the Waverley community that cannot otherwise be achieved in our current structure and size.

BACKGROUND:

The NSW Government established an Independent Local Government Review Panel in 2011 and their report "The Case for Sustainable Change" was released in November 2012.

The report comments on Metropolitan Sydney outlining the different populations within the 41 councils and says "a critical element in future metropolitan governance will be the role of the City of Sydney as a centrepiece" of the local government system.

The Panel is seeking further evidence on the benefits and drawbacks of amalgamations in different circumstances.

The three Councils should work together to clearly understand the benefits and possibilities of further resource sharing or joint tendering and any drawbacks from any boundary changes.

1212.7 OBITUARIES (A02/0017)

Harry Masselos
Karen Hourihan

MOTION / DECISION (Goltsman / Strewe)

That a letter of sympathy be forwarded to the families of the deceased named above expressing the condolences of the Mayor, Councillors and staff in the bereavement they have experienced.

Council rose for a minute's silence for the souls of people generally who have died in our Local Government Area.

1212.8 QUESTIONS BY COUNCILLORS WITH NOTICE

**1212.8.1
Appeals against zoning refusals (A07/1581-06)**

The following question was submitted by Cr Strewe:

The State Government has decided that Council zoning refusals can now be reviewed. Could the Director, Planning and Environmental Services advise if this could apply to all zones in Waverley?

The Director of Planning and Environmental Services replied:

Yes, all planning proposals submitted in Waverley to amend the LEP, not just rezoning proposals but any proposals to amend the LEP, are now subject to review by the Joint Regional Planning Panel if they are refused by Council or not dealt with within a 90 day period.

1212.8.2
Bronte RSL Site Specific Controls (A12/0220-02)

The following question was submitted by Cr Masselos:

Can the Director, Planning and Environmental Services clarify why the Council is reviewing the development of site specific controls for the Bronte RSL site and whether this is an initiative of Council or whether it was a requirement imposed upon Council by the State Government?

MOTION / DECISION (Betts / Clayton)

That this Question with Notice be deferred to the Council Meeting to be held on 19 February 2013.

1212.8.3
Off Leash Dog Area Trials (A11/0440-02 and A02/0287)

The following question was submitted by Cr Kanak:

What data is Council collecting to determine the effectiveness of the new dog off leash area trials?

The Director of Recreation, Customer and Community Services replied:

For these 12 month trials the data collected will be principally community feedback, plus also observations from rangers and staff.

1212.8.4
Bronte Cutting Car Park (A11/0469)

The following question was submitted by Cr Kanak:

One of the recommendations of the 2009 Parking Review was to consult the Community about the Bronte Cutting Car Park, a process which was undertaken for Council by Elton Consulting. Was a report prepared, and if so, can the General Manager advise when it will be available to Council to assist in informing the current Councillor Officer resident parking review process?

The Director of Corporate and Technical Services replied:

A report hasn't been prepared on that yet but in any case it would not be part of the current residential review parking process because Bronte Cutting Car Park is not a residential parking area.

1212.9 QUESTIONS BY COUNCILLORS TO THE MAYOR WITHOUT NOTICE

Note from the General Manager: In accordance with Council's adopted procedures, each Councillor may ask the Mayor one question without notice. Councillors are requested to submit their question in writing to the Mayor at the time the question is asked.

1212.9.1 Bronte Character Study (A07/1581-06)

The following question was submitted by Cr Strewe:

I understand Council has agreed to include the Bronte character study into the revised LEP, which at the moment is missing from it. Can the Mayor advise whether the Bronte Character Study will be included in the next reiteration, of the LEP which will be submitted to the State Government for ratification?

The Mayor replied:

I am not able to answer that question as I don't know the answer. The question should be put on Notice for the relevant Director to answer.

1212.10 PUBLICATIONS RECEIVED

MOTION / DECISION (Goltsman / Kay)

That Council receive and note the following publications received from public bodies:

1. Surf Life Saving New South Wales – 105th Annual Report 2011 – 12
2. Professional Network Magazine – October 2012
3. Australian Local Government Association – The Case for Change – November 2012

1212.11 NOTICE OF MOTIONS SUBMITTED BY COUNCILLORS

Note from the General Manager: Council should note that for the purposes of budgetary control and planning, any Notices of Motion received and endorsed by Council, will be assessed for budgetary implications.

If they cannot be achieved within existing allocations they will be referred to the Finance, Ethics & Strategic Planning Committee for its consideration of budget implications, in conjunction with the budget estimates or at a quarterly review of the budget.

The report to Council about progress in achieving Council's Motions will also highlight whether budget issues are involved.

1212.11.1

Bronte Public School Mural (A05/1643)

Cr Strewe declared a less than significant non pecuniary interest in this item and informed the meeting that she lives in close proximity to the school.

The following is a revised Notice of Motion submitted by Cr Kay and Cr Mouroukas:

DECISION / MOTION (Kay / Mouroukas)

That Council:

1. Investigate whether a Civic Pride project, or an alternative more simple initiative, would be supported by the Bronte Public School, Bronte Precinct Committee and local residents for a mural or other appropriate measures or treatment, such as planting, on the outside of the long school wall at the eastern end of Palmerston Avenue to address the occurrence of graffiti.
2. Receive a brief report of any agreed outcomes, and if a mural is being proposed, the matter be referred to the Waverley Public Art Committee.

BACKGROUND

The exterior of the long Bronte Public School wall at the eastern end of Palmerston Avenue is constantly being defaced with graffiti, which is then cleaned off at a cost, leaving the wall looking extremely unsightly. A local resident has requested that the wall be considered for a mural.

1212.11.2

Change to S94A Development Contributions Plan 2006 (A12/0307)

The following Notice of Motion was submitted by Cr Kay and Cr Mouroukas:

MOTION / DECISION (Kay / Mouroukas)

That Council, as part of the report that will be prepared on changes to the Development Contributions Levy, investigate further possible amendments to the S94A Development Contributions Plan 2006 (the 'Plan') to include a set of criteria within the 'Plan' that clarifies circumstances where the levy may be waived.

BACKGROUND

Section 94A of the Environmental Planning and Assessment Act 1979 provides that a consent authority may impose, as a condition of consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan (the 'Plan'), of the proposed cost of carrying out the development.

At the November 2012 Development Control Committee, Council approved an application for alterations and additions on a property and waived the Section 94A levy, giving specific and valid reasons for doing so, including that:

1. The applicant is a registered charity.
2. The property and extensions are being used for affordable housing type purposes, including emergency and longer term crisis accommodation, counselling services and offices.
3. This action supports the commitment of the NSW State Government and Council to affordable housing and helping to address homelessness.
4. The operation provides public benefit and is in the public interest.
5. The 'Plan' permits Council to waive the levy if Council believes that it would be the right thing to do, and it chooses to do so in this specific case for the reasons given.

This motion provides an opportunity for policy amendments to the 'Plan' so that waiving of future levies are performed in a sound, consistent and equitable manner.”

1212.11.3

Waverley Council Swimming Pool to Pond Conversion Information Program for Waverley Municipality Residents (A08/1210)

The following Notice of Motion was submitted by Cr Masselos:

“That as Waverley Council acknowledges the importance of biodiversity in the Waverley Local Government Area:

1. The appropriate Council Officers investigate Ku-ring-gai Council's Wild Things Program which is a program that actively encourages households to do something good for the environment with their unused / underused swimming pools.
2. A representative from Ku-ring-gai Council be invited to speak to Councillors and Council Staff about this program, its merits and benefits, and learnings.

3. Council develop an information pack about how to convert swimming pools to ponds, provide advice and guidance about how to keep the pond healthy and contributing to Waverley's biodiversity.
4. A public lecture about pool to pond conversions be offered to the residents of Waverley.
5. A new category be introduced into Waverley's Garden Awards for best Pond Garden.

BACKGROUND:

Council has a comprehensive Environmental Action plan which includes working on cutting greenhouse emissions, saving water, reducing waste, building biodiversity and engaging in sustainability education and engagement. Council also provides some advice to residents as to how they can help.

Many private backyard swimming pools are expensive to maintain (chemicals, electricity, cleaning) and can be either underused or disused. For people thinking about ridding themselves of their pool, they are usually unaware of alternative options to those of chlorination or filling them in. In fact there are 50 such ponds now on Sydney's north shore.

The experience of Ku-ring-gai Council's "Wild Things" Program is evidence that swimming pools can be converted to back yard ponds which can make a significant contribution to biodiversity by providing a haven for local native species including frogs.

Random testing by the University of Sydney of 8 pool to pond conversions for E-Coli and other bacteria has found that all were within the guidelines for primary water contact. They are also safe for a quick dip.

Other findings show:

1. These pools are NOT mosquito havens.
2. Is a reversible process, ie ponds can be converted back to swimming pools.
3. The process is inexpensive and can in fact save money on electricity, cleaning and chemicals bills.

This initiative should not require additional budget allocation as it falls within officers existing duties."

MOTION / DECISION (Betts / Kay)

That this Notice of Motion be deferred to the Council Meeting to be held on 19 February 2013.

1212.11.4

Repair of Waverley Cemetery Boundary Fences and Internal Barriers / Guard Railings (A04/0264-02)

The following Notice of Motion was submitted by Cr Masselos:

“That as the orange tape in and around Waverley Cemetery has been creating an eyesore for a long period of time:

1. The fences that have orange safety tape surrounding Waverley Cemetery be repaired as a matter of urgency.
2. The barriers / guard railings inside Waverley Cemetery that contain orange safety tape be repaired as a matter of urgency.
3. A report be presented to Council detailing the number of instances of vandalism in Waverley Cemetery as compared to damage caused by natural weathering and exposure to the elements.
4. This report is to also compare vandalism incidents with other cemeteries in Sydney’s East and South East.
5. The Allan Jack and Cottier Report be made available to all Councillors.

BACKGROUND:

Over the past five or so years, the fences and railings in and around Waverley Cemetery have been deteriorating. Prior to this time, the fences were regularly maintained and any broken or missing pickets were quickly repaired.

While it is understood that there is a working party investigating a number of options concerning the long term viability of the cemetery, it will be some considerable time before any decision and action will be taken.

In the meantime, the fences and railings continue to degrade and continue to provide an ever increasing risk to public safety as a result. Residents have also been complaining that the orange tape is a major eyesore.

There appears to be money in the budget as at the last Council meeting a capital works schedule was presented which had an allocation of approx. \$7+ million for cemetery upkeep.”

MOTION / DECISION (Betts / Clayton)

That this Notice of Motion be deferred to the Council Meeting to be held on 19 February 2013.

1212.11.5

Waverley Council Becomes a Supporter of OzHarvest (A11/0141)

The following Notice of Motion was submitted by Cr Masselos:

“That Waverley Council becomes an active supporter of OzHarvest by donating any suitable surplus food as a result of any Council meetings and functions.

BACKGROUND:

The OzHarvest initiative has been recognised both domestically and internationally for its social entrepreneurship and excellence in providing a much needed service to Sydney’s hungry.

Waverley Council has many catered meetings and functions that have left over food suitable for donation to OzHarvest.”

MOTION / DECISION (Betts / Cusak)

That this Notice of Motion be deferred to the Council Meeting to be held on 19 February 2013.

1212.11.6

Councillor Officer Working Group for Review of Waverley Council’s Resident Parking Scheme (A12/0276)

The following Notice of Motion was submitted by Cr Kanak and was subsequently withdrawn at the meeting.

MOTION (WITHDRAWN)

“That Council notes that the parking review paper lists 40 issues for consideration by the councillor-officer resident parking review working group and that the issues paper be made publicly available on the issues for comment page of Council’s website, and public submissions are invited, on these 40 issues and any other relevant matters and that the final draft report be placed on public exhibition prior to final adoption of recommendations by Council.”

1212.11.7

Incentives for Car Free Households (A08/1357)

The following Notice of Motion which was submitted by Cr Kanak was ruled out of order by the Chair on the basis of repetition. Issue 39 of the Residential Preferred Parking Scheme Review already deals with exactly this matter. It states “Could we offer incentives within the residential parking permit system to encourage residents to reduce the number of vehicles registered to their property and to own smaller environmentally sustainable vehicles, motor cycles and scooters?” This issue was included within the June 2012 Community, Housing, Environmental Services & Public Works Committee Agenda and became a resolution of Council, as part of the Residential Preferred Parking Scheme Review, at the June 2012 Council meeting. It is therefore already Council policy to do this.

“That Council, as part of the current Councillor Officer resident parking review, investigate ways to provide incentives to households to remain or become car free.”

MOTION OF DISSENT (Strewe / Kanak)

Cr Strewe moved a Motion of Dissent on the Chair's ruling (that the Motion is out of order).

THE MOTION OF DISSENT WAS PUT AND DECLARED LOST.

DECISION: That the Chair's ruling be upheld.

1212.12 ADDITIONAL MATTERS FOR CONSIDERATION

1212.12.1

Investment Portfolio Reporting (A03/2211)

Report dated 20 November 2012 from the Director, Corporate and Technical Services providing an update on the performance of Council's investment portfolio for the 2012/13 financial year to 31 October 2012.

MOTION / DECISION (Cusak / Guttman-Jones)

That Council:

1. Receive and note this report.
2. Note that all investments have been made in accordance with the requirements of section 625 of the Local Government Act 1993 and directions from the Minister for Local Government, including Ministerial Investment Orders and Council's Investment Policy.

1212.12.2

Delegations over the Christmas Break (A03/0013)

Report dated 3 December 2012 from the Director, Corporate and Technical Services about the delegations over the Christmas Holiday Period

MOTION / DECISION (Betts / Clayton)

That Council:

1. Approve for the period 12 December 2012 to 29 January 2013 inclusive, the delegations from Council under Section 377 and Section 381 of the Local Government Act 1993 to the Development Control Committee to determine all applications are instead delegated to the Mayor (or her nominee), the Chair of the Development Control Committee and Councillor Strewe together, provided all three Councillors

unanimously agree on the wording of the determination of the specific development application to be considered and the Director of Planning & Environmental Services concurs.

2. Resolve that the Mayor, or in her absence the Deputy Mayor, in consultation with the General Manager, will determine any matter, excepting Development Applications, that would normally require a Council decision between the last ordinary meeting of the Council for 2011 and the first ordinary meeting of the Council in 2013, with any such matter so dealt with then reported to the first available Council meeting.

1212.12.3

Case for Sustainable Change Discussion Paper (A12/0619)

Report dated 3 December 2012 from the General Manager regarding the release of the 'Case for Sustainable Change' discussion paper and the development of a Council submission.

MOTION / DECISION (Betts / Kay)

That Council:

1. Receive and note the 'Case for Sustainable Change' report from the Independent Local Government Review Panel and the Australian Mayors – What can and should they do? Discussion paper.
2. Agree to develop a submission on the Case for Sustainable Change to be discussed at a Council Workshop in February 2013 prior to the submission close-off date of March 2013.

1212.12.4

Reporting on Council's 2010/2013 Delivery Program (A10/0189)

Report dated 3 December 2012 from the Director, Corporate and Technical Services reporting on progress with implementing Council's 2010/2013 Delivery Program as required by section 404(5) of the Local Government Act 1993.

A copy of the Progress Review 2010 – 2013 Delivery Program dated December 2012 was distributed separately with the Agenda.

MOTION / DECISION (Betts / Goltsman)

That Council receive and note progress to date with actions from Council's Operational Plan in delivering on Council's 2010/2013 Delivery Program.

1212.12.5

Dog off Leash Areas and Associated Issues with Compliance (A11/0440-02 and A02/0287)

Cr Strewe declared a less than significant non pecuniary interest in this item and informed the meeting that she is related to one of the speakers.

Report dated 28 November 2012 from the Director, Planning and Environmental Services and the Director, Recreation, Customer and Community Services about issues regarding dogs in parks, reserves and open space.

MOTION (Kay / Burrill)

That:

1. Council note the implementation of the educational campaign for dog owners, along with follow up monitoring and management, with particular attention to issues around behaviour of dog walkers and dogs at Raleigh Reserve.
2. Council relocate the Children's playground at Raleigh Reserve following investigation by Council officers regarding the best site for re-location.
3. Council note the need to review the effectiveness of the educational campaign and the introduction of new Off Leash areas for dog owners prior to taking further steps.
4. Council receive a further report in May 2013 on the outcome of the educational campaign, the expansion of areas and the community consultation at Marks Park and Bronte Park and Gully.
5. Pending results of the educational campaign, Council further consider in the first quarter of 2013 whether the off leash area at Raleigh Reserve be divided into On Leash and Off Leash and whether a fence should be installed to delineate the area.
6. The community consultation on Marks Park and Bronte Park and Gully be undertaken in February and March 2013.
7. That in relation to Bronte Park and Gully:
 - (a) The path over the top of the gully at Bronte Road towards Hewlett Street, alongside Hewlett Street to Hewlett Reserve and down to Bayview to the Coastal Walk is drawn on the map.
 - (b) The paths are surveyed and any missing pieces made accessible.
 - (c) A full risk assessment of using the path is undertaken across all relevant departments and on the potential impact on the public.
8. All maps used in the consultation must include measurements of the distances from the playground and picnic areas to the paths.
9. Over the holiday period Council Rangers issue infringements notices to dog owners who are not complying with the existing restrictions.

Amendment 1 (Kanak / Strewe)

This is Page 16 of the Minutes of the Council Meeting held on Tuesday, 11 December 2012.

MAYOR

That Council investigate fencing a dog off leash area in Raleigh Reserve rather than relocating the playground.

AMENDMENT 1 WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Guttman-Jones, Kanak and Strewe.

Against the Amendment: Crs Betts, Burrill, Clayton, Cusack, Goltsman, Kay and Mouroukas.

Amendment 2 (Strewe / Kanak)

That Bronte Park and Gully is excluded from the consultation for dogs on leash being able to use all paths in the park except the walk marked on the map tabled by Cr Strewe and that the status quo remains.

AMENDMENT 2 WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Kanak and Strewe.

Against the Amendment: Crs Betts, Burrill, Clayton, Cusack, Goltsman, Guttman-Jones, Kay and Mouroukas.

Amendment 3 (Strewe / Kanak)

That there is no off leash area in Bronte Park.

AMENDMENT 3 WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Kanak and Strewe.

Against the Amendment: Crs Betts, Burrill, Clayton, Cusack, Goltsman, Guttman-Jones, Kay and Mouroukas.

Amendment 4 (Strewe / Kanak)

That a full risk assessment is undertaken across all relevant departments, lifeguards, gardeners, etc. and on the potential impact on the public.

AMENDMENT 4 WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Guttman- Jones, Kanak and Strewe.

Against the Amendment: Crs Betts, Burrill, Clayton, Cusack, Goltsman, Kay and Mouroukas.

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION: That the Motion be adopted.

G. Pearce, G. Stevens, R. Sassoon and D. Gathy addressed the meeting.

1212.12.6

Waverley Local Hero of the Year Awards (A08/0832)

Report dated 28 November 2012 from the Director, Recreation, Customer and Community Services about the Waverley Local Hero of the Year winners for 2013.

MOTION / DECISION (Clayton / Strewe)

That Council:

1. Receive and note the report.
2. Endorse the recommendations from the panel for the 2013 Waverley Local Hero of the Year, Certificate of Achievement and Waverley Young Local Hero of the Year.

1212.12.7

Evaluation of Tender – Maintenance of Council Sporting Fields – Waverley Oval and Playing Fields 2 and 3 (A12/0106)

Report dated 1 December 2012 from the Director, Public Works & Services about the findings from the Assessment Panel created to evaluate the tender for the Maintenance of Council Sporting Fields – Waverley Oval and Playing Fields 2 and 3.

MOTION / DECISION (Strewe / Betts)

That:

1. Council enters into a contract under Clause 178 of the Local Government (General) Regulation 2005 with Green Options for a contract period of 3 years with an option to extend for a further 2 years for the Maintenance of Council Sporting Fields – Waverley Oval and Playing Fields 2 and 3.
2. The unsuccessful tenderers be notified of the tender result.

1212.12.8

Lease Bondi Beach Foods Pty Ltd, The Bucket List, Shop 1 Bondi Pavilion

Cr Kanak declared a less than significant non pecuniary interest in this item and informed the meeting that he knows the Applicant.

Report dated 29 November 2012 from the Director, Corporate & Technical Services about the lease for Bondi Beach Foods Pty Ltd.

MOTION / DECISION (Betts / Strewe)

That:

1. Council receive and note the report.

2. Notes that the request by Bondi Beach Foods for a new lease of Shop 1, Bondi Pavilion has been withdrawn.
3. Approves the calling of Expressions of Interest for appropriate usage of Shop 1, Bondi Pavilion in 2015.

1212.12.9

Tree Preservation Order Report - Removal of one Phoenix palm in a Heritage Conservation Area (TPO-360/2012)

Report dated 3 November 2012 from the Director, PWS about a request to review (TPO-360/2012) the refusal of an application to remove a mature *Phoenix canariensis* (Canary Island Date Palm) from 57 Ruthven Street (TPO-263/2012).

MOTION / DECISION (Cusak / Burrill)

That Council

1. Receive and note the report from the Director Public Works & Services in regard to TPO 360/2012.
2. Approves the removal of the *Phoenix canariensis* (Canary Island Date Palm).

Cr Kanak asked that it be recorded in the minutes that he voted against the Motion.

1212.12.10

Visioning for Bronte's Macpherson and St Thomas Street Neighbourhood Centre (which includes Bronte RSL) – Information Report (A12/0220-02)

Report dated 11 December 2012 from the Director, Planning and Environmental Services providing information on recent community consultation and specialist consultant reports.

A copy of the Community Consultation Report dated November 2012 was distributed separately with the Agenda.

MOTION (Cusak / Burrill)

That Council note:

- A. The matters raised in response to community consultation regarding Bronte's Macpherson and St Thomas Street Neighbourhood Centre (which includes Bronte RSL) as described at Attachment A and in the body of the subject report.
- B. The matters raised in the Council commissioned Bronte RSL Redevelopment, 113 Macpherson Street, Bronte - Traffic and Parking Peer Review as described at Attachment B and in the body of the subject report.

- C. The matters raised in the Council commissioned Urban Design Analysis of Bronte's Macpherson and St. Thomas Street Neighbourhood Centre (which includes Bronte RSL) as described at Attachment C and in the body of the subject report.
- D. That Council will receive a report at its meeting in February 2013 indicating whether any changes to the development controls contained within the Waverley Local Environment Plan 2012 and Development Control Plan 2012 are recommended.

Also that:

- 1. A workshop and briefing is held for Councillors in the New Year before the report is finalised.
- 2. It is noted that Figure 31 in the Urban Design Analysis of Bronte's Macpherson Street and St Thomas Street Neighbourhood Centre, undertaken by Olsson & Associates Architects Pty Ltd, was prepared to show the 32 degree angle of the edge of the buildings in relation to the sun and the lane only. It does not represent Council's view of any other matters such as the increased excavation for parking and lower ground floors shown in the diagram.
- 3. Further analysis be undertaken of truck sweep and legal advice obtained as to whether Council has the power to limit truck size and weight.
- 4. Advice be obtained on whether, if the RSL Club fails to revive as a club, the Liquor Licence remains with the land.

Amendment 1 (Strewe / Kanak)

That an analysis be undertaken of whether or not this site should in fact be residential.

AMENDMENT 1 WAS PUT AND DECLARED LOST.

Amendment 2 (Strewe / Kanak)

Clarification be obtained and a specific limit be set as to the size of shops / retail permitted in Neighbourhood Zones since it could affect this neighbourhood centres and other Waverley neighbourhood centres. Whilst the current LEP provides for neighbourhood shops of 80m², it also appears to permit business premises and does not stipulate a size for such uses. There has been an assumption that one can build a shopping centre on the site of over 1000m² ignoring the objectives of the Neighbourhood Centre / Business Zone.

AMENDMENT 2 WAS PUT AND DECLARED LOST.

Amendment 3 (Strewe / Kanak)

That further traffic analysis be undertaken on the impact of a retail supermarket on the Clovelly Public School.

AMENDMENT 3 WAS PUT AND DECLARED LOST.

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION That the Motion be adopted.

S. Lightfoot, M. Redmond and S. Sanders addressed the meeting.

This is Page 20 of the Minutes of the Council Meeting held on Tuesday, 11 December 2012.

MAYOR

1212.12.11

Additional fees for Development Applications that are heritage-related or subjected to coastal inundation (A12/0193)

Cr Mouroukas declared a pecuniary interest in this item and informed the meeting he owns a heritage home. Cr Mouroukas was not present at, or in sight of, the meeting during the discussion and vote on this item.

Report dated 6 December 2012 from the Director, Planning and Environmental Services about the waiving of fees for certain categories of Development Applications that require the advertising of heritage-related proposals or for assessing reports for properties subjected to coastal inundation.

MOTION / DECISION (Kay / Clayton)

That this matter be deferred to the February meeting of Council so that the officers can further investigate the proposed options to ensure they are lawful and equitable and to also consider further options not yet investigated including the extent of advertising required for heritage properties and whether amendments to the advertising requirements rather than the fees is an option that Council should consider.

1212.13 ADOPTION OF COMMITTEE MINUTES

1212.13.1

Development Control Committee Meeting – 27 November 2012

MOTION / DECISION (Kay / Guttman-Jones)

That the Minutes of the Development Control Committee Meeting of 27 November 2012 be received and noted and that such Minutes be confirmed as a true record of the proceedings of that Meeting.

1212.13.2

Development Control Committee Meeting – 4 December 2012

MOTION / DECISION (Kay / Guttman-Jones)

That the Minutes of the Development Control Committee Meeting of 4 December 2012 be received and noted and that such Minutes be confirmed as a true record of the proceedings of that Meeting.

1212.13.3

Waverley Traffic Committee Meeting – 6 December 2012

MOTION / DECISION (Kay / Burrill)

That Part 1 of the Minutes of the Waverley Traffic Committee Meeting of 6 December 2012 be received and noted, and that the recommendations contained in Clauses WTC-1212.C1 to WTC-1212.C7, WTC-1212.V1, WTC-1212.Z1 to WTC-1212.Z3, WTC-1212.L1 and WTC-1212.L2 be adopted.

A resident of Bondi Junction addressed the meeting.

1212.14 GENERAL MANAGER'S REPORT

There was no report from the General Manager.

1212.15 PETITIONS

1212.15.1

78 Campbell Parade, Bondi Beach – Section 96 Modification Application (DA-168/2005/E)

Petition containing 32 signatures, the majority of which are of residents of Campbell Parade and Jaques Avenue, Bondi Beach, objecting to the Section 96 Modification Application in relation to the extension of hours, increased patronage and outdoor seating.

MOTION / DECISION (Clayton / Kanak)

That the petition be received and noted and forwarded to the Director, Planning & Environmental Services.

1212.15.2

78 Campbell Parade, Bondi Beach – Section 96 Modification Application (DA-168/2005/E)

Petition containing 55 signatures, the majority of which are of residents of Bondi, supporting the Section 96 Modification Application to provide increased hours to include breakfast, increased seating, a secure toddler play area inside the atrium and the provision of a café cart inside the Arcade.

MOTION DECISION (Kanak / Clayton)

That the petition be received and noted and forwarded to the Director, Planning & Environmental Services.

1212.15.3

180-186 Campbell Parade, Bondi Beach – 24 Hour Supermarket and Liquor Store (DA-433/2012)

Crs Guttman-Jones and Strewe were not present in the Chamber during the discussion and vote on this Item.

Two Petitions, one containing 276 signatures and the second containing 417 signatures, the majority of which are of residents living in the Campbell Parade and surrounding streets requesting Council to refuse the Development Application 433/2012.

MOTION / DECISION (Betts / Goltsman)

That the petition be received and noted and forwarded to the Director, Planning & Environmental Services.

V. Brunninghausen (Petitioner) addressed the meeting.

1212.16 QUESTIONS BY COUNCILLORS FOR NEXT COUNCIL MEETING

There were no questions by Councillors for the next Council meeting.

1212.17 URGENT BUSINESS

There were no Urgent Business items.

1212.18 MATTERS TO BE DEALT WITH IN CLOSED SESSION

Note from the General Manager: It is my opinion that the business listed under this section is of a kind referred to in section 10A(2) of the Local Government Act 1993 and, under the provisions of the Act and the Local Government (General) Regulation 2005, should be dealt with in a part of the meeting that is closed to members of the public and the media.

In accordance with section 10A(2) of the Act, Council may close part of its meeting to deal with business of the following kind:

- (a) personnel matters concerning particular individuals.
- (b) personal hardship of any resident or ratepayer.
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
- (d) commercial information of a confidential nature that would, if disclosed:

- i prejudice the commercial position of a person who supplied it; or
 - ii confer a commercial advantage on a competitor of Council;
 - iii reveal a trade secret.
- (e) information that would, if disclosed, prejudice the maintenance of law.
 - (f) matters affecting the security of Council, Councillors, Council staff and Council property.
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.
 - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

Pursuant to section 10A(4) of the Act and clause 252 of the Regulation, members of the public may make representations to the meeting immediately after the motion to close part of the meeting is moved and seconded, as to whether that part of the meeting should be closed.

There were no matters to be dealt with in Closed Session.

1212.19 SUBMISSION OF RESCISSION MOTIONS

Note from the General Manager: Rescission motions must be submitted to the General Manager, or in the absence of the General Manager a member of Council's Governance Unit, and announced before the close of the meeting. The date and time of receipt will be noted on all rescission motions.

Rescission motions received before 10am on the next working day following the meeting will stay action to implement Council's decision until the rescission motion has been determined. This is in line with section 372 of the Local Government Act and Council's Code of Meeting Practice.

Rescission motions received after 10am on the next working day following the meeting may not stay action on implementing Council's decision. Rescission motions will generally be dealt with at the next Council meeting.

The Chair called for the submission of any rescission motions and none were received.

THE MEETING CLOSED AT 9.57PM

**SIGNED AND CONFIRMED
19 FEBRUARY 2013**

MAYOR