



Minutes

Ordinary Meeting

Held at Council Chambers, 1 Belgrave Street Manly on:

Monday 8 August 2011

All minutes are subject to confirmation at a subsequent meeting.

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The Ordinary Meeting was held in the Council Chambers, Town Hall, Manly, on Monday 8 August 2011. The meeting commenced at 7:50 PM.

PRESENT

Councillor B Aird
Councillor H Burns
Councillor L Elder
Councillor C Griffin
Councillor A Heasman
Councillor A Le Surf
Councillor R Morrison, Deputy Mayor who presided
Councillor D Murphy
Councillor M Norek
Councillor C Whitting

ALSO PRESENT

Henry Wong, General Manager
Stephen Clements, Deputy General Manager, Executive Manager, Landuse & Sustainability
Ross Fleming, Deputy General Manager, People, Place & Infrastructure
Anthony Hewton, Head of Strategy, Acting Executive Manager, Corporate Services
Secretariat Officer

OPENING PRAYER

The Opening Prayer was presented by David Rowe, Seaforth Baptist Church.

APOLOGIES

Apologies were tendered on behalf of The Mayor, Councillor Jean Hay AM and Councillor Peter Macdonald OAM for non-attendance.

MOTION (Burns / LeSurf)

That the apologies received from The Mayor, Councillor Jean Hay AM and Councillor Peter Macdonald OAM, for non-attendance be accepted.

138/11 **RESOLVED: (Burns / LeSurf)**

That the apologies received from The Mayor, Councillor Jean Hay AM and Councillor Peter Macdonald, for non-attendance be accepted.

For the Resolution: Councillors Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST

Nil.

PUBLIC FORUM

NAME	SUBJECT/PUBLIC SPEAKERS
David Parsons	Little Manly
Digby Hughes	Manly Council in the Community

CONFIRMATION OF MINUTES**MOTION (LeSurf / Whitting)**

That copies of the Minutes of the Ordinary Meeting held on Monday, 18 July 2011, having been furnished to each member of the Council, such Minutes be taken as read and confirmed as a true record of proceedings of such meeting.

139/11 **RESOLVED: (LeSurf / Whitting)**

That copies of the Minutes of the Ordinary Meeting held on Monday, 18 July 2011, having been furnished to each member of the Council, such Minutes be taken as read and confirmed as a true record of proceedings of such meeting.

For the Resolution: Councillors Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

PUBLIC ADDRESSES

The following person addressed the meeting on a confidential item Corporate Services Division Report No 32 – Operate Learn to Swim Program at Andrew “Boy” Charlton Swim Centre at Manly:

In support of the Motion: Danny White

MAYORAL MINUTES**PUBLIC ADDRESSES**

The following person addressed the meeting on this item:

In support of the Motion: Digby Hughes

Mayoral Minute Report No. 11

Ombudsman’s Report on the Council’s Handling of Mr Monshall’s Complaint**MOTION (Hay)**

That the recommendations in the Ombudsman’s report into the Council’s Handling of Mr Monshall’s complaint be implemented.

140/11 **RESOLVED: (Hay)**

That the recommendations in the Ombudsman’s report into the Council’s Handling of Mr Monshall’s complaint be implemented.

For the Resolution: Councillors Elder, Heasman, Murphy, LeSurf and Morrison

Against the Resolution: Councillors Whitting, Norek, Griffin, Aird and Burns

With the voting being equal the Chairperson exercised his casting vote in favour of the motion and declared it carried.

NOTICES OF MOTION

Notice of Motion Report No. 22

**Lighting along Manly Lagoon Reserve
Councillor Craig Whitting moved:**

That Council provides a detailed report that investigates the benefits and costs associated to providing lighting along Manly Lagoon Reserve.

Background and supporting information

Supporting community safety is paramount in Manly, by providing lighting for Manly Lagoon Reserve it will offer residents and visitors a genuine sense of safety when using the walking and cycle path at night.

For several years residents have been requesting the lighting of Manly Lagoon Reserve walking and cycle path. Manly Council's Safety Committee has also repeatedly recommended the need of lighting in this reserve as a method of improving safety for pedestrians using the walkway between Pittwater Road and Cameron Avenue at night.

MOTION (Whitting / Norek)

That Council provides a detailed report by October that investigates the benefits and costs associated to providing lighting along Manly Lagoon Reserve.

AMENDMENT (Aird / LeSurf)

That Council support the Resolution of the Planning & Strategy meeting of 1st August 2011 adopting the recommendation of the Safety Committee Item 5 in regard to lighting in Lagoon Park.

For the Amendment: Councillors Elder, Heasman, Murphy, LeSurf, Morrison, Griffin, Aird and Burns

Against the Amendment: Whitting and Norek.

The **Amendment** became the **Motion** and was put and declared **Carried**.

141/11 RESOLVED: (Aird / LeSurf)

That Council support the Resolution of the Planning & Strategy meeting of 1st August 2011 adopting the recommendation of the Safety Committee Item 5 in regard to lighting in Lagoon Park.

For the Amendment: Councillors Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Amendment: Nil.

ITEMS FOR BRIEF MENTION

Item For Brief Mention Report No. 12

Items for Brief Mention

1. Complaints made to the General Manager

There are no pending complaints made to the General Manager as at August 2011.

2. Notices of Motion status report.

The following Notices of Motion are currently in progress.

Res No.	Meeting Date	Subject	Resolution	Status
121/11	18 July 2011	Notice of Motion - Leaching at Little Manly Point	That Council provides a detailed report on the leaching causing a blue stain in the rocks and cliff face at Little Manly Cove and provide assurance to community that this leaching is not toxic and does not present any danger to the community or environment.	In progress
118/11	18 July 2011	Notice of Motion - Manly 2015	To enable the Manly2015 proposal to be properly considered with clarity by all Manly residents:	In progress
			1. A) Council hereby confirms that no street closures, one way conversions, or shared zones will be included on the beachfront (North and South Steyne) or B) The Corso via Whistler Street routes in the Manly2015 scheme.	
			2. That this design clarification is widely promoted including by staff presentation to the Fairy Bower and Little Manly Precincts, newspaper advertising and that all public display and consultation documentation for Manly2015 is promptly amended to reflect this clarification.	In progress
			3. That the closure and conversion of Sydney Road to a mall between Whistler Street and The Corso be retained within the Manly 2015 proposal for public comment.	Complete
			4. That conversion of Whistler Street to two way traffic flow from Sydney Road to Raglan Street is undertaken if it is still proposed that Sydney Road be closed between Belgrave and Whistler Street as part of the current Manly 2015 proposal.	In progress
117/11	18 July 2011	Notice of Motion - Redirection of the stormwater pipe away from Clontarf Pool	That Manly Council proceed with the redirection of the stormwater pipe away from Clontarf Pool.	Pending subject to funding availability.
			1. That all work to be completed by November in readiness for the 2011 summer season.	
			2. That the design of the stormwater pipe is diverted to an existing adjacent outlet away from	Pending subject to

			the Clontarf swimming enclosure.	funding availability.
100/11	20 June 2011	Notice of Motion - Works on North Steyne stormwater outfall pipes	1. That any works on the North Steyne stormwater outfall pipes be deferred pending further consultation with the surfing community.	In progress
			2. That following the consultation process with the surfing community and seek the opinion of Manly Hydraulics and the matter be brought back to Council for consideration.	In progress
44/10	19 April 2010	Notice of Motion - Manly Council to Investigate Resuming Provision of Street Lighting in the Manly Municipality	That Council conducts an investigation and produces a report on the feasibility or taking over all or part of the street lighting in the Manly Municipality, currently run by Energy Australia at Council's expense. That such a report include but not be limited to the following items: - Identification of possible areas to be taken over including staging options and outlining selection methodology/criteria, - Identification of any additional costs or savings from taking over these assets over say a 20 year term. - Consideration of whether the transfer would assist Council to make the street lighting installation more energy efficient and likely cost savings and environmental benefits from such a change. - Consideration of whether such a transfer would enable Council to place more lighting wiring underground to make selected areas more attractive and the installations less prone to damage. - Consideration of whether there would be further cost savings from undertaking the street lighting on a regional or SHOROC based scale.	In progress

3. Document to be Tabled

Date	Author	Subject
20/07/11	NSW Government , Trade and Investment	Department Name and ABN

MOTION (Heasman / Burns)

1. That the information be received and noted.
2. That the information be received and noted.
3. That the document tabled at this meeting be received and noted.

142/11 RESOLVED: (Heasman / Burns)

1. That the information be received and noted.
2. That the information be received and noted.
3. That the document tabled at this meeting be received and noted.

For the Resolution: Councillors Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

CORPORATE SERVICES DIVISION

Corporate Services Division Report No. 30

Report on Council Investments as at 30 June 2011**SUMMARY**

In accordance with clause 212 of the Local Government (General) Regulation 2005, a report setting out the details of money invested must be presented to Council on a monthly basis.

The report must also include certification as to whether or not the Investments have been made in accordance with the Act, the Regulations and Council's Investment Policy.

MOTION (LeSurf / Murphy)

That the statement of Bank Balances and Investment Holdings as at 30 June 2011 be received and noted.

143/11 **RESOLVED: (LeSurf / Murphy)**

That the statement of Bank Balances and Investment Holdings as at 30 June 2011 be received and noted.

For the Resolution: Councillors Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil

Councillor Elder was not in chamber when the voting took place.

PLANNING AND STRATEGY DIVISION

Planning And Strategy Division Report No. 16

Hospital Poll Results**SUMMARY**

On 14 March 2011 at its Ordinary Meeting, Manly Council resolved to conduct a poll of residents as part of its community engagement process to indicate their preferences for the future use of the existing Manly Hospital site. This report provides the results of the "hospital poll" to Council for its information.

MOTION (LeSurf / Griffin)

That:

1. Council receives and notes the report.
2. The results of the Manly Hospital Poll / Survey be conveyed by letter to the NSW Minister for Health Ms Jillian Skinner, and the State Member for Manly Mr Mike Baird, with a response being sought from them on the State Government's options or plans for the Manly Hospital Site following the development of a new Level 5 Hospital at Frenchs Forest.

144/11 **RESOLVED:** **(LeSurf / Griffin)**

That:

1. Council receives and notes the report.
2. The results of the Manly Hospital Poll / Survey be conveyed by letter to the NSW Minister for Health Ms Jillian Skinner, and the State Member for Manly Mr Mike Baird, with a response being sought from them on the State Government's options or plans for the Manly Hospital Site following the development of a new Level 5 Hospital at Frenchs Forest.

For the Resolution: Councillors Elder, Heasman, Whitting, Murphy, LeSurf, Morrison,
Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

QUESTIONS WITHOUT NOTICE

QWN62/11 Councillor Whitting - Speed calming devices in Rolfe Street

Will Council install speed calming devices in Rolfe Street?

At the request of the Deputy Mayor the General Manager advised that the Traffic Committee resolved to install additional speed humps in Rolfe Street as part of the footway works currently being undertaken. Council will go back to residents that will be immediately effected prior to installing the speed humps.

QWN63/11 Councillor Aird - The area between The Corso to Manly Surf Club

There are a number of issues regarding the area between The Corso and Manly Surf Club, along the beach promenade which don't look good for Council as they are in such a high profile area.

- There is a dilapidated sign at the south end going down to the beach that had been there for a long time which has faded writing and the sign on the other side of the frame appears to be missing.
- There is an absence of smoke free signs; there is only one sticker that leads down to the beach from The Corso.
- There are two large circular areas where there would have been pine trees but are now blank spaces which look scruffy.
- The recycle bin near the Wishing Well area that does not have the yellow word on "recycling"
- The litter banner which worked well last summer has been absent for some time now. The Waste Committee requested that the sign be replaced at its last meeting but it still not there.

At the request of the Deputy Mayor the General Manager advised he would take it on notice.

QWN64/11 Councillor Burns - Fountain mist

When will the mist be reactivated in the magnificent fountain near the wharf?

At the request of the Deputy Mayor the General Manager advised that the pump needed attention and this was in progress.

QWN65/11 Councillor Burns - Missing pine trees

What are our existing plans for replacing missing small trees?

At the request of the Deputy Mayor the General Manager advised that he would take it on notice.

QWN66/11 Councillor Burns - Brick outside library

Is there a Policy for bricks which have been used for fund raising outside the library as this area will be affected by the Manly 2015?

At the request of the Deputy Mayor the General Manager advised he would take it on notice.

QWN67/11 Councillor Murphy - Manly Council's LEP/DCP

The DCP states how many square metres of land are required per dwelling for compliance ie. One dwelling per 250² – per 300m².

There are some blocks of land in Manly that have covenants on them stating things like one dwelling per block even though under the DCP they would be entitled to two, three or four dwellings etc.

Manly Council's LEP does not include a clause to say Council approval over rides any private covenant. It appears some other Council's do.

1. How would you go about changing the DCP if this is the case?
2. Does Council consider the covenant when assessing a DA?
3. If it should be done by the courts, not done by modifying the LEP, which court would you go to?

At the request of the Deputy Mayor the General Manager advised that covenants have no planning considerations where as your planning instruments are in place or established to control the type of development that could occur within that area. A private covenant between two parties is actionable by the parties in question.

A consent granted by Council is a planning consent for development on land and if that land has a covenant on it then the owner of the land has to deal with those restrictions separately.

QWN68/11 Councillor Burns - Council Resolution 250/10 - Triangle Site Redevelopment
Alternative Energy Feasibility - Draft Report.

Why was Resolution 250/10 not fully dealt with in the 6th June report to Council entitled "**Triangle Site Redevelopment Alternative Energy Feasibility - Draft Report**".

At the request of the Deputy Mayor the General Manager advised that staff would provide more information back to Council in due course.

At the request of the Deputy Mayor, Acting Executive Manager Corporate Services advised this matter will be referred to the Branch Manager of Natural resources to see if Kinesis can furnish a further report to Council on other opportunities for tri generation or co generation elsewhere in Manly.

CONFIDENTIAL COMMITTEE OF THE WHOLE

Civic and Urban Services Division Report No. 8

Tender T2011/25 - Provision of Painting Services for Fences and Bollards

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (d) of the Local Government Act, 1993, on the grounds that the report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.

Environmental Services Division Report No. 22

Tender T2011/26 - Divestment of Council's Trade Waste Service

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (d) of the Local Government Act, 1993, on the grounds that the report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.

Human Services And Facilities Division Report No. 7

Tender T2011/27 - Licence for operation of an Arts, Crafts and Farmers' Market in Manly

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (d) of the Local Government Act, 1993, on the grounds that the report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.

Corporate Services Division Report No. 31

Tender T2011/32 - Operate Kiosk at the Andrew "Boy" Charlton Swim Centre at Manly

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (d) of the Local Government Act, 1993, on the grounds that the report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.

Corporate Services Division Report No. 32

Tender T2011/33 - Operate Learn to Swim Program at Andrew "Boy" Charlton Swim Centre at Manly

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (d) of the Local Government Act, 1993, on the grounds that the report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.

CLOSED SESSION

MOTION (Morrison / Heasman)

That the meeting move into Closed Session to consider the above item.

The Chairperson, Deputy Mayor, Richard Morrison asked if any members of the public gallery objected to the matter being heard in closed Session.

It is noted that no representations were received from the public gallery.

145/11 **RESOLVED: (Morrison / Heasman)**

That the meeting move into Closed Session to consider the above items.

For the Resolution: Councillors Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

OPEN COUNCIL RESUMED

Upon resuming into Open Council, the Chairperson advised the meeting of the following decisions made in Closed Session.

Civic and Urban Services Division Report No. 8

Tender T2011/25 - Provision of Painting Services for Fences and Bollards

MOTION (Elder / Burns)

1. That Council accepts the Schedule of Rates Tenders from the following suppliers for the provision of painting services for fences and bollards for the period 1 September 2011 until 30 June 2013:
 - a. Pro – Asset Painting Maintenance Pty Ltd - Ranked as preferred Tenderer.
 - b. Workzone Pty Ltd- ranked as 2nd Preferred Tenderer.
2. That provision be allowed for a 12 month extension based on satisfactory supplier performance which may take this tender through to 30 June 2014.

146/11 **RESOLVED: (Elder / Burns)**

1. That Council accepts the Schedule of Rates Tenders from the following suppliers for the provision of painting services for fences and bollards for the period 1 September 2011 until 30 June 2013:
 - a. Pro – Asset Painting Maintenance Pty Ltd - Ranked as preferred Tenderer.
 - b. Workzone Pty Ltd- ranked as 2nd Preferred Tenderer.
2. That provision be allowed for a 12 month extension based on satisfactory supplier performance which may take this tender through to 30 June 2014.

For the Resolution: Councillors Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

Environmental Services Division Report No. 22

Tender T2011/26 - Divestment of Council's Trade Waste Service

MOTION (LeSurf / Griffin)

That Council:

1. Accept the offer from J.J. Richards Pty Ltd to purchase Council's Trade Waste Service and assets for \$546,000 (excluding GST) and execute the necessary contract for sale of the business.
2. Notify the tenderers accordingly.

147/11 **RESOLVED: (LeSurf / Griffin)**

That Council:

1. Accept the offer from J.J. Richards Pty Ltd to purchase Council's Trade Waste Service and assets for \$546,000 (excluding GST) and execute the necessary contract for sale of the business.
2. Notify the tenderers accordingly.

For the Resolution: Councillors Elder, Heasman, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Councillor Whitting

Human Services And Facilities Division Report No. 7

Tender T2011/27 - Licence for operation of an Arts, Crafts and Farmers' Market in Manly

MOTION (Morrison / Le Surf)

That:

In accordance with the terms resolved in closed Committee.

148/11 **RESOLVED: (Morrison / Le Surf)**

That:

In accordance with the terms resolved in closed Committee.

For the Resolution: Councillors Elder, Heasman, Whitting, Murphy, LeSurf, Morrison,
Norek, Griffin and Aird

Against the Resolution: Councillor Burns

Corporate Services Division Report No. 31

Tender T2011/32 - Operate Kiosk at the Andrew "Boy" Charlton Swim Centre at Manly

MOTION (Aird / Griffin)

That:

1. Pursuant to clause 178 (1)(a) of the Local Government (General) Regulation 2005, Council accept the Tender for a Licence to operate the Kiosk at the Andrew "Boy" Charlton Swim Centre at Manly from Volhan Pty Ltd, for the tendered total lump sum of \$90,000 (excluding GST), for a 3 year term commencing on 1 September 2011 to 31 August 2014;
2. Subject to satisfactory performance the Licence be offered with an option of one year plus an additional one year option.
3. That the unsuccessful Tenderer be advised in writing of the decision of Council.

149/11 **RESOLVED: (Aird / Griffin)**

That:

1. Pursuant to clause 178 (1)(a) of the Local Government (General) Regulation 2005, Council accept the Tender for a Licence to operate the Kiosk at the Andrew "Boy" Charlton Swim Centre at Manly from Volhan Pty Ltd, for the tendered total lump sum of \$90,000 (excluding GST), for a 3 year term commencing on 1 September 2011 to 31 August 2014;
2. Subject to satisfactory performance the Licence be offered with an option of one year plus an additional one year option.
3. That the unsuccessful Tenderer be advised in writing of the decision of Council.

For the Resolution: Councillors Elder, Heasman, Whitting, Murphy, LeSurf, Morrison,
Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

Corporate Services Division Report No. 32

Tender T2011/33 - Operate Learn to Swim Program at Andrew "Boy" Charlton Swim Centre at Manly

MOTION (Murphy / Norek)

That:

In accordance with the terms resolved in closed Committee.

150/11 **RESOLVED: (Murphy / Norek)**

That:

In accordance with the terms resolved in closed Committee.

For the Resolution: Councillors Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

CLOSE

The meeting closed at 10.31pm.

The above minutes were confirmed at an **Ordinary Meeting** of Manly Council held on 12 September 2011.

MAYOR

***** END OF MINUTES *****