



## Minutes

### Ordinary Meeting

Held at Council Chambers, 1 Belgrave Street Manly on:

**Monday 9 August 2010**

*All minutes are subject to confirmation at a subsequent meeting.*

*Copies of business papers are available at the Customer Services Counter at Manly Council, Manly Library and Seaforth Library and are available on Council's website:  
[www.manly.nsw.gov.au](http://www.manly.nsw.gov.au)*

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The Ordinary Meeting was held in the Council Chambers, Town Hall, Manly, on Monday 9 August 2010. The meeting commenced at 7.35pm.

## PRESENT

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

## ALSO PRESENT

Henry Wong, General Manager  
Stephen Clements, Deputy General Manager, Executive Manager, Environmental Services  
Ross Fleming, Acting Deputy General Manager, Divisional Manager, Corporate Services  
Beth Lawsen, Divisional Manager, Human Services and Facilities  
Anthony Hewton, Divisional Manager, Corporate Planning and Strategy  
Christine Bone, Secretariat Services

## OPENING PRAYER

The Opening Prayer was presented by Captain Brett Mitchell, Salvation Army.

## APOLOGIES

Apologies were tendered on behalf of Councillor Peter Macdonald, for non-attendance.

123/10     **RESOLVED:**     **(Whitting / Burns)**

That the apology received from Councillor Peter Macdonald for non-attendance, be accepted and leave be granted.

**For the Resolution:**     Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison,  
Norek, Griffin, Aird and Burns  
**Against the Resolution:**     Nil.

## DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST

<b>Name:</b>	<b>Item Number:</b>	<b>Nature of Interest:</b>
Councillor Morrison	General Managers Division Report No.17 – Property Matter	Pecuniary interest - property interest

**CONFIRMATION OF MINUTES****MOTION**

That copies of the Minutes of the Ordinary Meeting held on Monday, 19 July 2010, 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.

124/10 **RESOLVED: (Burns / Whitting)**

That copies of the Minutes of the Ordinary Meeting held on Monday, 19 July 2010, 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 Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

**Against the Resolution:** Nil.

**PUBLIC FORUM**

NAME	SUBJECT
Trudy Van Der Straaten	Bunning's DA 16/2010
Richard Hewitt	1. Masterplan for Balgowlah/Manly Vale light industrial area. 2. Bunnings DA 16/2010. 3. Compliance conditions for pubs and other major venues. 4. Pub closing times in Manly.

**SUSPENSION OF STANDING ORDERS (Morrison / LeSurf)**

That Standing Orders be suspended to allow for consideration of items of public interest i.e. Notice of Motion Report No.39 – Manly Council Interim Tier 3 Complaint Review Procedure, Human Services & Facilities Division Report No.9 - Sydney Road Markets Origin, Current Operations and Review and Notice of Motion Report No.37 – Extension of Existing Alcohol Free Zone.

125/10 **RESOLVED: (Morrison / LeSurf)**

That Standing Orders be suspended to allow for consideration of items of public interest i.e. Notice of Motion Report No.39 – Manly Council Interim Tier 3 Complaint Review Procedure, Human Services & Facilities Division Report No.9 - Sydney Road Markets Origin, Current Operations and Review and Notice of Motion Report No.37 – Extension of Existing Alcohol Free Zone.

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

**Against the Resolution:** Nil.

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**NOTICES OF MOTION**

Notice of Motion Report No. 39

**Manly Council Interim Tier 3 Complaint Review Procedure**

Councillor Burns moved:

- 1) Council is to finalise and adopt its Draft 2008 Complaints Management Policy document and

bring back to Council within three (3) months.

- 2) The policy is to be enhanced to include a new tier 3 Complaints review procedure as follows:
  - a) Council is to set up a Tier 3 Complaints Review Committee comprising two Councillors, the General Manager or nominated representative and a volunteer independent community representative, together with a staff member not involved in the administrative area connected with the complaint to minute any meetings.
  - b) The procedure for referring matters to the Tier 3 Complaints Review Committee is to be automatically activated by a written (email, letter or fax) request to the General Manager for a review of a matter or determination, but only after Tier 1 (face to face staff) and Tier 2 (Council Management staff review) have failed to satisfy the complainant or otherwise resolve the matter.
  - c) The Committee terms of reference are to be developed by the General Manager, senior staff and the Committee, and approved by the Committee.
  - d) At each hearing or meeting one of the Councillors is to Chair the hearing or meeting held, independently without bias or favour toward the complainant or Council staff.
  - e) Meetings are to be fully minuted and minutes are to be signed (certified) by the two Councillors to be an accurate record of the meeting proceedings, data, and agreed outcomes.
  - f) The Committee has the authority of the Councillors to require production of any Council record, file or information or statement that would reasonably, in the opinion of either Councillor, assist the investigation or resolution of the complaint being examined.
  - g) The outcome of the review procedure is to be an efficient and fair resolution of all matters placed before the Manly Council Complaints Review Committee, and at the end of considering each matter the Committee is to report to Council (as a whole) on the outcomes reached and make any recommendations it sees are required to improve the administration of Manly Council.

## **PUBLIC ADDRESSES**

The following person addressed the meeting in relation to this item:

In support of the Recommendation: Trudy Van Der Straaten

## **MOTION (Burns / Aird)**

- 1) Council is to finalise and adopt its Draft 2008 Complaints Management Policy document and bring back to Council within three (3) months.
- 2) The policy is to be enhanced to include a new tier 3 Complaints review procedure as follows:
  - a) Council is to set up a Tier 3 Complaints Review Committee comprising two Councillors, the General Manager or nominated representative and a volunteer independent community representative, together with a staff member not involved in the administrative area connected with the complaint to minute any meetings.
  - b) The procedure for referring matters to the Tier 3 Complaints Review Committee is to be automatically activated by a written (email, letter or fax) request to the General

Manager for a review of a matter or determination, but only after Tier 1 (face to face staff) and Tier 2 (Council Management staff review) have failed to satisfy the complainant or otherwise resolve the matter.

- c) The Committee terms of reference are to be developed by the General Manager, senior staff and the Committee, and approved by the Committee.
- d) At each hearing or meeting one of the Councillors is to Chair the hearing or meeting held, independently without bias or favour toward the complainant or Council staff.
- e) Meetings are to be fully minuted and minutes are to be signed (certified) by the two Councillors to be an accurate record of the meeting proceedings, data, and agreed outcomes.
- f) The Committee has the authority of the Councillors to require production of any Council record, file or information or statement that would reasonably, in the opinion of either Councillor, assist the investigation or resolution of the complaint being examined.
- g) The outcome of the review procedure is to be an efficient and fair resolution of all matters placed before the Manly Council Complaints Review Committee, and at the end of considering each matter the Committee is to report to Council (as a whole) on the outcomes reached and make any recommendations it sees are required to improve the administration of Manly Council.

#### **AMENDMENT (Heasman / Elder)**

That Council write to the Ombudsman to progress the Draft 2008 Complaints Management Policy.

**For the Amendment:** Councillors Hay, Elder, Heasman, Whitting, Murphy and LeSurf

**Against the Amendment:** Councillors Burns, Griffin, Aird, Morrison and Norek

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

#### 126/10 **RESOLVED: (Heasman / Elder)**

That Council write to the Ombudsman to progress the Draft 2008 Complaints Management Policy.

**For the Resolution:** Councillors Hay, Elder, Heasman, Whitting, Murphy and LeSurf

**Against the Resolution:** Councillors Burns, Griffin, Aird, Morrison and Norek

(Note: This resolution is subject to a Rescission Motion)

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### **HUMAN SERVICES AND FACILITIES DIVISION**

Human Services And Facilities Division Report No. 9

#### **Sydney Road Markets Origin, Current Operations and Review**

#### **SUMMARY**

This report aims to advise the Council of the history, intention and current agreement and issues for markets to operate in the Sydney Road and Market Lane areas. Results of the recent survey of Sydney Road businesses in relation to the Weekend Markets, and a recommendation for the future operations of the Markets are provided.

**PUBLIC ADDRESSES**

The following person addressed the meeting in relation to this item:

Against the Recommendation: Laurian Powers, Chamber of Commerce

In support of the Recommendation: Ross Alexander, Blue Sky Events Pty Ltd

**PROCEDURAL MOTION (Aird / Griffin)**

THAT Ms Powers be permitted to re-address Council.

**For the Resolution:** Councillors Whitting, Aird, Norek and Griffin

**Against the Resolution:** Councillors Elder, Heasman, Hay, Murphy, LeSurf, Morrison and Burns

The **Procedural Motion** was declared **Lost**.

**MOTION (Morrison / Burns)**

1. That at the conclusion of the current agreement on 31 August 2011, Council pursue Option 3 as outlined in this report i.e. relocate the weekend markets to an alternative location which is not in close proximity to other retail businesses within the Manly CBD (further analysis would need to be undertaken).
2. Continue market operations while enforcing strict compliance issues of vehicle access, stall holder set up and numbers and layout, and mix of goods sold (so as to minimise competition with existing retailing businesses yet still honour the conditions specified in the license agreement).

**AMENDMENT (Murphy / Norek)**

1. Receives this report;
2. Pursues Option 2 as outlined in this report i.e. continue market operations while enforcing strict compliance issues of vehicle access, stall holder set up and numbers and layout, and mix of goods sold (so as to minimise competition with existing retailing businesses yet still honour the conditions specified in the license agreement).
3. Advises the Manly Chamber of Commerce of its decision in this regard, and also works in liaison with the Chamber to improve the working relationship between the Market operations and businesses in Sydney Road;
4. A committee be set up as soon as possible before the expiration of Blue Sky Events Pty Ltd Lease agreement on 31 August 2011 to report back to Council on future options of the market relocation, and
5. That Council work with Blue Sky Events Pty Ltd to look at improving the stalls by use of a "back-to-back" layout and also taking into account the New Brighton hoarding and new police station.

**For the Amendment:** Councillors Murphy and Norek

**Against the Amendment:** Councillors Burns, Griffin, Aird, Morrison, Hay, Elder, Heasman, Whitting, and LeSurf

The **Amendment** was declared **Lost**.

**FORESHADOWED AMENDMENT (Aird / Heasman)**

That:

1. Council urgently investigate possible options under clause 8 (vi) to relocate the markets to Market Lane and Short Street as soon as possible. If it is not legally possible then the General Manager to bring back an urgent report on the possible options on the future of the markets.
2. Rules of Operation be altered to read "Items for sale must be handmade quality goods produced in Australia".
3. Council enforce strict compliance with the conditions of the licence agreement.

**For the Foreshadowed Amendment:** Councillors Griffin, Aird, Hay, Elder, Heasman, and LeSurf

**Against the Foreshadowed Amendment:** Councillors Whitting, Murphy, Morrison, Norek and Burns

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

127/10 **RESOLVED: (Aird / Heasman)**

That:

1. Council urgently investigate possible options under clause 8 (vi) to relocate the markets to Market Lane and Short Street as soon as possible. If it is not legally possible then the General Manager to bring back an urgent report on the possible options on the future of the markets.
2. Rules of Operation be altered to read "Items for sale must be handmade quality goods produced in Australia".
3. Council enforce strict compliance with the conditions of the licence agreement.

**For the Resolution:** Councillors Griffin, Aird, Hay, Elder, Heasman, and LeSurf

**Against the Resolution:** Councillors Whitting, Murphy, Morrison, Norek and Burns

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## NOTICES OF MOTION

Notice of Motion Report No. 37

### Extension of Existing Alcohol Free Zone

Councillor Craig Whitting moved:

That Manly Council develops a proposal to extend the existing Alcohol Free Zone as a component of a broader campaign to reduce anti-social activities that are caused by the consumption of alcohol.

Streets to be incorporated into the Alcohol Free Zone by the extension will include:



- West Esplanade to the Art Gallery at the intersection of Commonwealth Parade;
- West Promenade;
- Eustace Street;
- From Belgrave Street intersection along Sydney Road to the Eustace Street intersection and
- East Esplanade to Stuart Street intersection.

That Council seeks the support of the State Government through its Hassle Free Nights program when developing the proposal.

### **PUBLIC ADDRESSES**

The following person addressed the meeting in relation to this item:

In support of the Recommendation: Candy Bingham, Manly Precinct

### **MOTION (Whitting / Aird)**

That Manly Council develops a proposal to extend the existing Alcohol Free Zone as a component of a broader campaign to reduce anti-social activities that are caused by the consumption of alcohol.

Streets to be incorporated into the Alcohol Free Zone by the extension will include:

- West Esplanade to the Art Gallery at the intersection of Commonwealth Parade;
- West Promenade;
- Eustace Street;
- From Belgrave Street intersection along Sydney Road to the Eustace Street intersection and
- East Esplanade to Stuart Street intersection.

That Council seeks the support of the State Government through its Hassle Free Nights program when developing the proposal.

128/10 **RESOLVED: (Whitting / Aird)**

That Manly Council develops a proposal to extend the existing Alcohol Free Zone as a component of a broader campaign to reduce anti-social activities that are caused by the consumption of alcohol.

Streets to be incorporated into the Alcohol Free Zone by the extension will include:

- West Esplanade to the Art Gallery at the intersection of Commonwealth Parade;
- West Promenade;
- Eustace Street;
- From Belgrave Street intersection along Sydney Road to the Eustace Street intersection and
- East Esplanade to Stuart Street intersection.

That Council seeks the support of the State Government through its Hassle Free Nights program when developing the proposal.

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

**Against the Resolution:** Nil.

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**RESUMPTION OF STANDING ORDERS (Norek / Griffin)**

That Standing Orders be resumed.

129/10 **RESOLVED: (Norek / Griffin)**

That Standing Orders be resumed.

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

**Against the Resolution:** Nil.

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Notice of Motion Report No. 36

**Towards Zero Waste....a clearer message needed on recycling**

Councillor Barbara Aird moved:

In order to overcome the significant difficulty in differentiating between waste and recycling bins in our public place timber bin housings, and to achieve greater recycling and less waste and contamination, that Manly Council enhances the signage by painting the etched words "recycle here" in yellow.

**MOTION (Aird / Elder)**

In order to overcome the significant difficulty in differentiating between waste and recycling bins in our public place timber bin housings, and to achieve greater recycling and less waste and contamination, that Manly Council enhances the signage by painting the etched words "recycle here" in yellow.

130/10 **RESOLVED: (Aird / Elder)**

In order to overcome the significant difficulty in differentiating between waste and recycling bins in our public place timber bin housings, and to achieve greater recycling and less waste and contamination, that Manly Council enhances the signage by painting the etched words "recycle here" in yellow.

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

**Against the Resolution:** Nil.

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Notice of Motion Report No. 38

**Enhancements and Confirmation of Aspects of Council Records Management Policy**

Councillor Hugh Burns moved:

That Council's Records Management procedures and policies are to be enhanced to ensure the following records are taken and maintained:-

That Rangers attending premises due to a complaint, nuisance or an incident are to make

contemporaneous records of their findings, actions or observations in their official notebook in the presence of the complainant with a verbal outline of what they are recording being given to the complainant as the record is written.

On returning to their base, a copy of the notebook page is to be submitted signed with any other reports made or submitted and it is to be held in Councils records management system or on file as is the usual record keeping procedure.

Council Expert Staff making a professional assessment - All assessments made by staff on any technical, procedural, compliance area to be recorded by means of not less than file note held in Council's records management system (or held on file) outlining details of the assessment made, including but not limited to:- any assumptions or background information used; the staff members observations; any factual evidence obtained or cited; a brief outline of the logical process used in making their assessment; and facts relied upon to reach their conclusions.

Council Staff Making phone calls to owners, objectors, developers consultants and certifiers regarding Development Assessment, Occupation Certificates and related Compliance matters. Council staff are required to always make contemporaneous records in the form of a file note/minute of all phone calls made to owners, objectors, developers, consultants and certifiers. The file notes/minutes are to be held in Councils records management system (or held on file)

Fax Machine records - Council is to retain and place on file inwards fax receipt records for all Council fax machines. These are to cover a period of not less than the preceding 12 months.

#### **MOTION (Burns / Aird)**

That Council's Records Management procedures and policies are to be enhanced to ensure the following records are taken and maintained:-

That Rangers attending premises due to a complaint, nuisance or an incident are to make contemporaneous records of their findings, actions or observations in their official notebook in the presence of the complainant with a verbal outline of what they are recording being given to the complainant as the record is written.

On returning to their base, a copy of the notebook page is to be submitted signed with any other reports made or submitted and it is to be held in Councils records management system or on file as is the usual record keeping procedure.

Council Expert Staff making a professional assessment - All assessments made by staff on any technical, procedural, compliance area to be recorded by means of not less than file note held in Council's records management system (or held on file) outlining details of the assessment made, including but not limited to:- any assumptions or background information used; the staff members observations; any factual evidence obtained or cited; a brief outline of the logical process used in making their assessment; and facts relied upon to reach their conclusions.

Council Staff Making phone calls to owners, objectors, developers consultants and certifiers regarding Development Assessment, Occupation Certificates and related Compliance matters. Council staff are required to always make contemporaneous records in the form of a file note/minute of all phone calls made to owners, objectors, developers, consultants and certifiers. The file notes/minutes are to be held in Councils records management system (or held on file)

Fax Machine records - Council is to retain and place on file inwards fax receipt records for all Council fax machines. These are to cover a period of not less than the preceding 12 months.

**AMENDMENT (Griffin / Morrison)**

That Council bring back a report on the process and flowchart currently in place for record keeping by rangers and compliance staff.

**For the Amendment:** Councillors Hay, Elder, Whitting, Morrison, Norek, Griffin, Aird and Burns

**Against the Amendment:** Councillors Heasman, Murphy and LeSurf

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

**131/10 RESOLVED: (Griffin / Morrison)**

That Council bring back a report on the process and flowchart currently in place for record keeping by rangers and compliance staff.

**For the Resolution:** Councillors Hay, Elder, Whitting, Morrison, Norek, Griffin, Aird and Burns

**Against the Resolution:** Councillors Heasman, Murphy and LeSurf

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Notice of Motion Report No. 40

**Drinking Fountains for Dogs**

Councillor Adele Heasman moved:

That Council investigate the practicalities and cost of installing Dog Drinking Fountains in relevant areas in the Manly Local Government Area.

**MOTION (Heasman / Elder)**

That Council investigate the practicalities and cost of installing Dog Drinking Fountains in relevant areas in the Manly Local Government Area.

**132/10 RESOLVED: (Heasman / Elder)**

That Council investigate the practicalities and cost of installing Dog Drinking Fountains in relevant areas in the Manly Local Government Area.

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

**Against the Resolution:** Nil.

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**ITEMS FOR BRIEF MENTION**

Item For Brief Mention Report No. 4

**Items for Brief Mention****1. Report:**

Council has received a letter from the Mayor, City of Randwick seeking support for campaigns by

the LGSA and environment groups for the introduction of Container Deposit Legislation (CDL) in NSW by writing to relevant Federal and State Ministers.

**MOTION (Aird / Griffin)**

That:

1. Council receive and note the information.
2. Council write to the Prime Minister, Federal Leader of the Opposition, Premier and Leader of the State Opposition and relevant State and Federal Ministers' seeking an explanation as to why they continue to ignore the requests by local government and the community to implement Container Deposit Legislation, despite its overwhelming success in South Australia.

133/10 **RESOLVED: (Aird / Griffin)**

That:

1. Council receive and note the information.
2. Council write to the Prime Minister, Federal Leader of the Opposition, Premier and Leader of the State Opposition and relevant State and Federal Ministers' seeking an explanation as to why they continue to ignore the requests by local government and the community to implement Container Deposit Legislation, despite its overwhelming success in South Australia.

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

**Against the Resolution:** Nil.

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## **CORPORATE SERVICES DIVISION**

Corporate Services Division Report No. 27

**Report on Council Investments as at 30 June 2010**

### **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 / Morrison)**

That the statement of Bank Balances and Investment Holdings as at 30 June, 2010 be received and noted.

134/10 **RESOLVED: (LeSurf / Morrison)**

That the statement of Bank Balances and Investment Holdings as at 30 June, 2010 be received

and noted.

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

**Against the Resolution:** Nil.

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Corporate Services Division Report No. 26

### **Financial Statements for the Year Ended 30 June 2010**

#### **SUMMARY**

Audit Statement pursuant to Section 413(2)(c) of the Local Government Act 1993.

#### **MOTION (LeSurf / Morrison)**

That:

1. In respect to Council's General Purpose Financial Reports the following statement be provided for signature by the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer:-

#### **GENERAL PURPOSE FINANCIAL REPORT FOR THE YEAR ENDED 30 JUNE 2010**

Statement by Councillors and Management made pursuant to section 413 (2)(c) of the Local Government Act 1993 (as amended).

The General Purpose Financial Report for the year ended 30 June 2010 (attached to agenda), has been prepared in accordance with:-

- The Local Government Act 1993 (as amended) and the Regulations made there under;
- The Australian Accounting Standards and professional pronouncements;
- The Local Government Code of Accounting Practice and Financial Reporting;

To the best of Council's knowledge and belief, this Report:

- Presents fairly the Council's operating result and financial position for the year; and
- Are in accordance with Council's accounting and other records.

We are not aware of any matter that would render this Report for the twelve months ending 30 June 2010, false or misleading in any way.

2. In respect to Council's Special Purpose Financial Reports, the following statement be provided for signature by the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer:-

#### **SPECIAL PURPOSE FINANCIAL REPORTS FOR THE YEAR ENDED 30 JUNE 2010**

Statement by Councillors and Management made pursuant to the Local Government Code of Accounting Practice and Financial Reporting.

The Special Purpose Annual Financial Reports for the year ended 30 June 2010 (attached to agenda), have been prepared in accordance with:-

- The Local Government Code of Accounting Practice and Financial Reporting; the
- NSW Government Policy Statement "*Application of National Competition Policy to Local Government*"; and
- Department of Local Government guidelines "*Pricing & Costing for Council Businesses: Guide to Competitive Neutrality*".

To the best of Council's knowledge and belief, this report:-

- Presents fairly the Council's operating result and financial position for each of Council's declared Business Activities for the year; and
- Is in accordance with Council's accounting and other records.

We are not aware of any matter that would render the Council's reports for the twelve months ending 30 June 2010, false or misleading in any way.

3. Council's Annual Financial Reports for the year ended 30 June 2010 be referred for audit by Council's Auditors.

135/10      **RESOLVED:**      (LeSurf / Morrison)

That:

1. In respect to Council's General Purpose Financial Reports the following statement be provided for signature by the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer:-

#### **GENERAL PURPOSE FINANCIAL REPORT FOR THE YEAR ENDED 30 JUNE 2010**

Statement by Councillors and Management made pursuant to section 413 (2)(c) of the Local Government Act 1993 (as amended).

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- The Local Government Act 1993 (as amended) and the Regulations made there under;
- The Australian Accounting Standards and professional pronouncements;
- The Local Government Code of Accounting Practice and Financial Reporting;

To the best of Council's knowledge and belief, this Report:

- Presents fairly the Council's operating result and financial position for the year; and
- Are in accordance with Council's accounting and other records.

We are not aware of any matter that would render this Report for the twelve months ending 30 June 2010, false or misleading in any way.

2. In respect to Council's Special Purpose Financial Reports, the following statement be provided for signature by the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer:-

#### **SPECIAL PURPOSE FINANCIAL REPORTS FOR THE YEAR ENDED 30 JUNE 2010**

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The Special Purpose Annual Financial Reports for the year ended 30 June 2010 (attached to

agenda), have been prepared in accordance with:-

- The Local Government Code of Accounting Practice and Financial Reporting; the
- NSW Government Policy Statement "*Application of National Competition Policy to Local Government*"; and
- Department of Local Government guidelines "*Pricing & Costing for Council Businesses: Guide to Competitive Neutrality*".

To the best of Council's knowledge and belief, this report:-

- Presents fairly the Council's operating result and financial position for each of Council's declared Business Activities for the year; and
- Is in accordance with Council's accounting and other records.

We are not aware of any matter that would render the Council's reports for the twelve months ending 30 June 2010, false or misleading in any way.

3. Council's Annual Financial Reports for the year ended 30 June 2010 be referred for audit by Council's Auditors.

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

**Against the Resolution:** Nil.

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Corporate Services Division Report No. 28

### **Notice of Motion Status Report - August 2010**

#### **SUMMARY**

Notice of Motions status report for the month of August 2010.

#### **MOTION (LeSurf / Elder)**

That the information be received and noted.

136/10 **RESOLVED: (LeSurf / Elder)**

That the information be received and noted.

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

**Against the Resolution:** Nil.

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### **QUESTIONS WITHOUT NOTICE**

**QWN72/10 Councillor Elder** - New sign erected at the top of Shelly Beach car park

I am resubmitting QWN 61/10 as I do not feel it has been answered correctly. There are new signs erected in the bush at the top of Shelly Beach car park. These are brand new signs, the sign/s I'm referring to refer to the cliff warning of falling. Who installed the signs? Who owns the land?



At the request of the Mayor, the General Manager advised that he would take this on notice.

**QWN73/10 Councillor Heasman - Tree Act**

Recent amendments to the Tree Act have been given assent by the NSW Parliament. A new part 2A has been inserted and there has been a change to the common law regarding high hedges that obstruct sunlight or views (it applies to two or more trees that are planted as a hedge and rise to a height of 2.5m above existing ground level).

As the Act has not yet begun, could Council clarify what will be defined as "severe"?

At the request of the Mayor, the General Manager advised that the dispute resolution mechanism envisaged by the legislation is for the parties to have their complaints adjudicated by the Land Environment Court. In terms of the word "severe" it is like all the other legal words in relation to the description of what the legal intent of the policy was. Severe would have to be more than just a partial obscuring of a view.

**QWN74/10 Councillor Whitting - Manly Ladies Swimming Club**

Is it true that Manly Council wants to charge Manly Ladies Swimming Club \$52 per hour for 2 ½ hrs each Saturday from October – March?

When a storm hit Manly back in '73/74 and destroyed the old baths, I understand Council built the swim centre with proviso that Manly Ladies Swimming Club could use the centre with no hiring charges, as Council would not rebuild the baths. I believe Council has records to substantiate this in its archives. The club has been in existence for over 100 yrs. They are all volunteers - if they pay full entry fee to the centre (as they are a non-profit organization) they will have difficulties covering the fees, insurance costs and provide trophies as the end of season.

I think this club and many similar clubs help promote the Swim Centre and keep the centre operating especially on wet days as we turn up regardless of weather. Could you please inform the Ladies Swimming Club of the decision ASAP of the outcome?

At the request of the Mayor, the General Manager advised that he would take this on notice.

**QWN75/10 Councillor Whitting - Fish Friendly Councils**

Is Council aware that NSW Government Grants are available to assist with Fish Friendly Councils, and is this Council applying for the available grants?

At the request of the Mayor, the General Manager advised that he would take this on notice.

**QWN76/10 Councillor Murphy - View loss**

Do the new rules on planting out someone's views (as mentioned in Councillor Heasman's QWN) apply equally to Councils and Government Departments as well as residents?

Do they apply to existing view loss that has been previously planted out by residents, Councils or Government Departments?

At the request of the Mayor, the General Manager advised that laws are applicable to Councils and Government Departments as well as residents. The legislation is retrospective.

**QWN77/10 Councillor Morrison** - Tree falling Phillip Avenue, Seaforth

I have a query regarding the tree that fell into the house on Phillip Avenue, Seaforth. It is reported in the Manly Daily that a Council officer advised the owner verbally that Council would probably not remove it if they put in a development application. Is this correct?

At the request of the Mayor, the General Manager advised that a council officer visited the site in January 2010. After it was established that the tree was on private property the owner was provided with a tree preservation order application form to have the tree attended to but no application was ever submitted to Council.

**QWN78/10 Councillor Griffin** - Questions raised in Public Forum

I am submitting the first two questions that Mr Richard Hewitt raised in the public forum:-

1. Why two months on is there no visible action on a master plan for Balgowlah/Manly Vale light industrial area? Is the word "urgent" in the June resolution not understood?
2. Why was Bunning's recommended for deferred acceptance when issues that led to rejection by MIAP and Council remain unresolved? And then, why did two staff members sit on the Joint Regional Planning Panel (JRPP) and apparently argue against their own recommendations?

At the request of the Mayor, the General Manager advised that with regards to the master plan, that Council is in the process of engaging a firm of planning consultants.

With regards to the second question the General Manager advised that members of the JRPP are independent and make independent decisions, Council members on JRPP are no different to any other members on the JRPP. Council has no control, and nor should it have control over how the Panel responds to an application. The General Manager advised that it is not legally possible for him to query why members of the Panel voted in a certain way.

**QWN79/10 Councillor Norek** - Questions raised in Public Forum

I am submitting the remaining two questions that Mr Richard Hewitt raised in the public forum:-

1. Why hasn't the Community Safety Committee laid its egg and produced summaries of compliance conditions for pubs and other major venues? Can councillors insist this be completed within three months and then used, e.g. compliance checks at least monthly and fines enforced for breaches? When did Council last fine a pub?
2. Why has Council not asked our local State Member to put in writing a State Liberal policy on pub closing times in Manly? All factions in this chamber signed on to an early closing petition a few months ago.

At the request of the Mayor, the General Manager advised that he would refer the questions to the Community Safety Committee.

**QWN80/10 Councillor Aird** - CBD Parking

In line with Councils' recent review of CBD parking:

1. Can the loading zone along the new shop frontages in Market Place (adjacent to Whistler Street carpark) have a specified time and when it is available for parking (as has been done with other loading zones within CBD).

2. Now that a 40kph speed limit applies within CBD can all superfluous signage and poles be removed from footpaths e.g. large school zone and 40kph signage be marked on roads.

At the request of the Mayor, the General Manager advised that 6.00am-8.00pm is the standard loading zone time.

With regards to the second question, the General Manager advised that we will need to seek the concurrence of the Traffic Committee and RTA.

#### **QWN81/10 Councillor Aird - Disabled Parking**

A recent letter in the Manly Daily raised concerns re parking in the Manly National Building stating that the location of four new disabled spaces on level 2 is unsuitable. Can I have a response to this?

At the request of the Mayor, the General Manager advised that he would take this on notice.

#### **QWN82/10 Councillor Burns - Water Quality Testing**

Is Council satisfied with the audit that came out of the recent construction site around the CBD, particularly the one in Whistler Street? Is it OK to discharge the stormwater? Do we do any quality testing?

At the request of the Mayor, the General Manager advised that any pump of that type would require a licence from the EPA / DECCW.

#### **QWN83/10 Councillor Burns - Evening Parking**

Can the General Manager please outline the logic on night parking charges we impose and the costs we face in opening the car parks either after 7pm or 24hours over the weekend. Why do we charge \$8?

At the request of the Mayor, the General Manager advised that the Fees and Charges are adopted by Council.

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Councillor Morrison left the chamber having previously declared a conflict of interest on the following item.

### **CONFIDENTIAL COMMITTEE OF THE WHOLE**

General Managers Division Report No. 17

#### **Property Matter**

*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.*

General Managers Division Report No. 18

**Federation Point Boardwalk - Maritime Lease**

*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) (c) of the Local Government Act, 1993, on the grounds that the report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*

**CLOSED SESSION**

**MOTION (LeSurf / Heasman)**

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

The Chairperson, Councillor Hay asked if any members of the public gallery objected to the matters being heard in Closed Session.

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

137/10      **RESOLVED: (LeSurf / Heasman)**

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

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

**Against the Resolution:**      Nil.

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**OPEN COUNCIL RESUMED**

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

General Managers Division Report No. 17

**Property Matter**

**MOTION (LeSurf / Heasman)**

That the matter proceed as per the discussion in the Closed session.

138/10      **RESOLVED: (LeSurf / Heasman)**

That the matter proceed as per the discussion in the Closed session.

**For the Resolution:**      Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Norek,  
Griffin and Burns

**Against the Resolution:**      Nil.

Councillor Aird was not in the Chamber when the voting took place.

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General Managers Division Report No. 18  
**Federation Point Boardwalk - Maritime Lease**

**MOTION (Griffin / Murphy)**

That the matter proceed as per the discussion in the Closed session.

139/10 **RESOLVED: (Griffin / Murphy)**

That the matter proceed as per the discussion in the Closed session.

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

**Against the Resolution:** Nil.

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**CLOSE**

The meeting closed at 12.15am on Tuesday 10 August 2010.

The above minutes were confirmed at an **Ordinary Meeting** of Manly Council held on 13 September 2010.

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**MAYOR**

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