

Media Release

Outrage over Council breaching its own rules

Friends of Warringah President, Vincent De Luca is outraged over revelations that Warringah Council staff facilitated a private meeting between Multi Plex/Vambucca with the Independent Hearing and assessment Panel in contravention of the Panel's rules.

At the Council meeting on Tuesday 8 April 2008, Warringah Council Director of Planning, Malcolm Ryan admitted to the meeting that he had approached the IHAP regarding the Dee Why Town Centre LEP which proposes to increase height limits from 5 and 6 storeys to 20 storeys and that he also facilitated a private meeting between the developers and IHAP.

Mr Ryan ironically stated in a report to the same meeting "The charter, under which IHAP currently operates, precludes the members from having any contact with either the applicant or objectors" (page 68 Item 9.2 8.4.08))

The IHAP's Charter clearly states that it's objectives are "To avoid any lobbying or external communication from applicants or objectors outside the forum of Panel hearings". The Charter also provides that "Panel Members must not approach an applicant or representor, or if approached by an applicant or representor must not discuss any application which is either before the Panel or will come before the Panel at some future time, except during the course of a panel meeting where the application forms part of the agenda and the applicant or representor has a right to be heard by the Panel".

Friends of Warringah President, Vincent De Luca stated "it is clear that Council's conduct in relation to the Dee Why Town Centre LEP and Development Applications is highly irregular and renders the Council unable to make a fair and impartial decision in the community's interests".

Mr Persson refused Mr De Luca request that Council call upon the NSW Ombudsman and St James Ethics Centre to review Mr Persson's and Council's handling of the controversial proposals. "We need an independent body not in receipt of money from Council to properly review Council's handling of this matter. If Council has done nothing wrong I can't understand why Mr Persson is so against having an independent review" Mr De Luca said.

"The conduct of Mr Persson and Council to date, particularly his false claims against and attempts to discredit residents objecting to the proposal compromises the whole process and shows just how biased he and his lieutenants are and that they are determined to steam roll the proposals through regardless of the overwhelming community opposition – it is so unfair" Mr De Luca stated.

"Residents at every public meeting held have overwhelmingly opposed the proposed increase to 20 storeys in the Dee Why Town Centre and called for it to be withdrawn pending the democratic election of Councillors in September, however, Mr Persson continues to arrogantly dismiss community concerns and push ahead with this outrageous proposal that seeks to destroy our quality of life and create a precedent for high rise developments across Warringah".

Several Petitions have been tabled in the New South Wales Parliament calling for an independent investigation into Warringah Council's handling of the proposal and that the proposals be withdrawn pending the election of Councillors in September. Questions have also been asked of the Minister for Local Government and Premier for a full investigation into Mr Persson's handling of the matter.

Shadow Minister for Local Government, Chris Hartcher MP has also questioned the Government on Mr Persson's contract and appointment as Administrator of Port Macquarie Council.

Pittwater MP, Rob Stokes has made representations to the Ministers for Planning, the Environment and Local Government about the proposal and has stated the "future of Dee Why ... will have flow on effects for my community of Pittwater" (refer letter dated 6 March 2008 previously provided to Manly Daily).

Manly MP, Mike Baird also raised his concerns about the proposal during debate in the Parliament stating "The Dee Why Town Centre development is a huge proposal and an elected council should have the final say on it rather than the current arrangement".

For more information please contact:

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Dr Richard Michell – 0417 255 726

Dr Christina Kirsch – 0411699 266

1645—MR DICK PERSSON

Ms Ficarra to the Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance representing the Premier, Minister for Citizenship—

The Minister for Education and Training representing the Premier stated in his answer to the Question on Notice 1505 that Mr Dick Persson is an "SES officer of the Department of Premier and Cabinet, Mr Persson is subject to the Code of Conduct for officers of the Department of Premier and Cabinet. Mr Persson is also subject to any whole of government codes by virtue of his appointment to an SES position in the Department of Premier and Cabinet" .

1. In view of the Premier's answer, will the Premier ensure that a full investigation be undertaken by his Department into Mr Persson's conduct in relation to breaches of the Code of Conduct for officers of the Department of Premier and Cabinet, possible maladministration pursuant to the Ombudsman's Act and corrupt conduct pursuant to the Independent Commission Against Corruption Act?
 - a. If so, will the Department look at Mr Persson's conduct in relation to the following;
 - i. abuse of residents of Warringah and making defamatory comments about objectors to the Dee Why Town Centre LEP at Council meetings since 13 November 2007?
 - ii. breaches of the principles of administrative law in that he has fettered his discretion and failed to provide procedural fairness by issuing a Media Release on Warringah Council letterhead in November 2007 promoting the Dee Why Town Centre proposal to increase height limits from 5 and 6 storeys to 20 storeys in stating "it is Dee Why's last chance" and also providing the contact details of Multiplex developments in the Council Media Release?
 - iii. conduct that amounts to maladministration pursuant to the Ombudsman's Act 1974 and possible corrupt conduct pursuant to the ICAC Act 1988 by his comments regarding objectors, for why a Public Hearing should not be held and failure to adhere to the Warringah Council Code of Conduct and Independent Hearing and Assessment Panel Charter?
 - iv. conduct that amounts to maladministration pursuant to the Ombudsman's Act 1974 and possible corrupt conduct pursuant to the ICAC Act 1988 due to his conflict of interest occasioned by his meetings with Multiplex/Vambucca development representatives and public comments in relation to the applicants and the applications?
 - v. alleged misuse of the Warringah Council issued Credit Card?
 - vi. failing to act impartially, in the public interest and to maintain public trust?
 - b. If not, why not?

Question asked on 9 April 2008 (session 54-1) and printed in [Questions & Answers Paper No. 46](#).
No answer has been published

1644—MR DICK PERSSON

Ms Ficarra to the Minister for Lands, Minister for Rural Affairs, Minister for Regional Development representing the Minister for Local Government, Minister for Aboriginal Affairs, Minister Assisting the Minister for Health (Mental Health)—

The Minister for Education and Training representing the Premier stated in his answer to the Question on Notice 1505 that Mr Dick Persson is an "SES officer of the Department of Premier and Cabinet, Mr Persson is subject to the Code of Conduct for officers of the Department of Premier and Cabinet. Mr Persson is also subject to any whole of government codes by virtue of his appointment to an SES position in the Department of Premier and Cabinet" .

1. In view of the Premier's answer, will the Minister for Local Government ensure that a full investigation be undertaken by his Department into Mr Persson's conduct in relation to breaches of the Code of Conduct for officers of the Department of Premier and Cabinet, possible maladministration pursuant to the Ombudsman's Act and corrupt conduct pursuant to the Independent Commission Against Corruption Act?
 - a. If so, will the Department look at Mr Persson's conduct in relation to the following;
 - i. abuse of residents of Warringah and making defamatory comments about objectors to the Dee Why Town Centre LEP at Council meetings since 13 November 2007?
 - ii. breaches of the principles of administrative law in that he has fettered his discretion and failed to provide procedural fairness by issuing a Media Release on Warringah Council letterhead in November 2007 promoting the Dee Why Town Centre proposal to increase height limits from 5 and 6 storeys to 20 storeys in stating "it is Dee Why's last chance" and also providing the contact details of Multiplex developments in the Council Media Release?
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1577—WARINGAH COUNCIL MAYOR AND COUNCILLOR FEES

Ms Ficarra to the Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance representing the Premier, Minister for Citizenship—

I refer to my question on Notice 1276 where I asked the Minister representing the Minister for Local Government whether Mayor and Councillors fees are paid to the State Government when a Council is under administration. I note the Minister responded "no".

1. Can the Premier please advise why :
 - a. the Warringah Council Annual Report for 2006/2007 states:
 - i. Mayor/Councillor Fees and Expenses
Between 1 July 2006 and 30 June 2007 the Mayor and Councillors fees were paid to the NSW Premier's Department as an Administrator was appointed. The total paid was \$222,092.
Mayoral Allowance - \$207,430
Seminars and Conferences - nil
Travel Allowance - \$1,180
Mobile Phones - \$1,926
Motor Vehicle - \$11,556?
 - b. the Warringah Council Annual Report for 2005/2006 states:
 - i. Mayor/Councillor Fees & Expenses
Between 1 July 2005 and 30 June 2006 the Mayor and Councillors fees were paid to the NSW Premier's Department as an Administrator was appointed. The total paid was \$219,362.00
Mayoral Allowance - \$199,600
Seminars and Conferences - \$1,670
Travel Allowance - \$1,473
Mobile Phones \$2,409
Motor Vehicles - \$14,208?
 - c. the Warringah Council Annual Report for 2004/2005 states:
 - i. Section 428(2) (f) Mayor/Councillor Fees & Expenses
Between 1 July 2004 and 30 June 2005 the Mayor and councillors fees were paid to the NSW Premier's Department as an Administrator was appointed. The total paid was \$199,600?
2. In view of the above extracts from the Warringah Council Annual reports that clearly show payments of the Mayor and Councillor fees and expenses to the Government:
 - a. what is the total amount, for each council under administration, of funds received since 2003?
 - b. what have these funds received by the Government from the Councils under administration been spent on?
3. Did the Minister for Local Government mislead the House in his answer 1276?
4. Will the Premier ensure that a full review of all payments made by Councils is undertaken and a report provided as to whether the respective Councils are

being charged correctly and that no Administrator is being paid by both the State Government and Council?

5. Is Mr Persson receiving both salary and expenses from Warringah Council and the State Government?
6. Why do the Warringah Council Annual Reports state that Mr Persson has received reimbursement for expenses each year between \$200,000 and \$208,000 from Warringah Council when Mayor and Councillor fees are being paid to the State Government?

Question asked on 1 April 2008 (session 54-1) and printed in [Questions & Answers Paper No. 42](#).
No answer has been published

1274—DRAFT LOCAL ENVIRONMENT PLAN — DEE WHY TOWN CENTRE

Ms Ficarra to the Minister for Lands, Minister for Rural Affairs, Minister for Regional Development representing the Minister for Local Government, Minister for Aboriginal Affairs, Minister Assisting the Minister for Health (Mental Health)—

- a. Did Mr Dick Persson, the Administrator of Warringah Council, issue a Media Release on Warringah Council letterhead dated 9 November 2007 supporting the proposal to increase the height limits of the Dee Why Town Centre to 20 storeys, which also included the name and contact details of the private developer's media spokesperson, prior to making a decision at the Warringah Council meeting on 13 November 2007?
- b. Did Mr Persson voice his support of the proposal in the Manly Daily on 10 November 2007 and in the ratepayer funded council column in the Manly Daily, prior to making a decision at the Warringah Council meeting on 13 November 2007?
- c. At the Council meeting of 13 November 2007 was Mr Persson was abusive and dismissive and did he denigrate members of the community who objected to the proposal, contrary to the Council's Code of Conduct, meeting practice and Local Government Act 1993?
- d. Will the Minister and Department of Local Government ensure that an investigation into Mr Persson's conduct is undertaken?
 - i. If not, why not?
- e. In view of Mr Persson fettering his discretion and breaching the principles of administrative law in relation to the proposal regarding the Dee Why Town Centre and Warringah Local Environment Plan, will the Minister appoint an alternate Administrator to consider all proposals in relation to the Dee Why Town Centre and Warringah Local Environment Plan?
 - i. If not, why not?

Answer—

I provide the following details in response to your questions:

1. to (5). The role of an administrator is to carry out the functions of the council under administration that are normally undertaken by the council's elected representatives.
Administrators and the councils under their administration are subject to the same level of departmental and public scrutiny as any other council.

The role of an administrator is to carry out the functions that would normally be undertaken by the elected representatives of the council, including policy making, ceremonial functions and exercising community leadership. Any member of the community who feels they were treated contrary to the Council's Code of Conduct should write to the Director General of the Department of Local Government providing details of the alleged breach. Upon receipt of any complaints in regard to this matter, the Department of Local Government will review and assess the matter. There are no grounds for appointing an alternative Administrator.

Question asked on 4 December 2007 (session 54-1) and printed in [Questions & Answers Paper No. 34](#)

Answer printed in [Questions & Answers Paper No. 36](#).

2166—DICK PERSSON—APPOINTMENT AS ADMINISTRATOR OF PORT MACQUARIE COUNCIL

Mr Chris Hartcher to the Minister for Local Government, Minister for Aboriginal Affairs, Minister Assisting the Minister for Health (Mental Health)—

1. (a) What process was undertaken prior to Mr Dick Persson being appointed Administrator of Port Macquarie Council?
(b) Was his appointment a merit-based selection?
2. On what dates has the Minister and/or his Director General met with Mr Persson since January 2006 and what was the purpose of such meetings?
3. On what date did Mr Persson's SES contract expire after he was displaced as a Director General?
4. On what date was Mr Persson's SES contract renewed and does that contract have provision within it for performance reviews?
5. What salary will Dick Persson receive as Administrator of Port Macquarie Council?
6. Will he receive two salaries and other allowances for being administrator of both Port Macquarie and Warringah Council?
7. If yes to (6), what is the total amount of salary, allowances and any other payments he will receive for the period 4 March 2008 to 30 September 2008?
8. (a) Does Mr Persson have an SES Credit Card?
(b) If so what has been the expenditure on that card for the following periods:
 - i. 2003-2004?
 - ii. 2004-2005?
 - iii. 2006-2007?
9. Will Mr Persson receive a Credit Card from Port Macquarie Council?
10. (a) Will the Minister refer the issues raised in Legislative Council Question on Notice 1274 to his department for proper investigation?
(b) If not, why not?

Answer—

I provide the following details in response to your questions:

1. (a) Mr Persson was nominated from a panel of names put forward by the Department of Local Government.
(b) Obviously Mr Persson was considered to have merit, otherwise he would

not have been appointed. The same process for the appointment of administrators has been in place since 1991.

2. I met with Mr Persson twice in September 2007 and the Director General of the Department of Local Government has advised me that he has met with Mr Persson on several occasions, as I as Minister or the Director General would do with any Administrator or General Manager or Mayor or Councillor on request.
3. This is a matter for the Department of Premier and Cabinet.
4. This is a matter for the Department of Premier and Cabinet.
5. Because Mr Persson continues to receive his SES salary, Port Macquarie Council will reimburse the Department of Premier and Cabinet in accordance with the Governor's determination that the Administrator's salary be \$138,360.
6. No.
7. N/A.
8. This is a matter for the Department of Premier and Cabinet.
9. This is a matter for Port Macquarie-Hastings Council to determine in line with its relevant policies, as they would determine for an elected Mayor and Councillors.
10. See response to LC QoN 1274, previously provided.

Question asked on 4 March 2008 (session 54-1) and published in [Questions & Answers Paper No. 49](#). Answer received on 08/04/2008 and published in [Questions & Answers Paper No. 57](#).

1577—WARRINGAH COUNCIL MAYOR AND COUNCILLOR FEES

Ms Ficarra to the Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance representing the Premier, Minister for Citizenship—

I refer to my question on Notice 1276 where I asked the Minister representing the Minister for Local Government whether Mayor and Councillors fees are paid to the State Government when a Council is under administration. I note the Minister responded "no".

1. Can the Premier please advise why :
 - a. the Warringah Council Annual Report for 2006/2007 states:
 - i. Mayor/Councillor Fees and Expenses
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- c. the Warringah Council Annual Report for 2004/2005 states:
 - i. Section 428(2) (f) Mayor/Councillor Fees & Expenses
Between 1 July 2004 and 30 June 2005 the Mayor and councillors fees were paid to the NSW Premier's Department as an Administrator was appointed. The total paid was \$199,600?
2. In view of the above extracts from the Warringah Council Annual reports that clearly show payments of the Mayor and Councillor fees and expenses to the Government:
 - a. what is the total amount, for each council under administration, of funds received since 2003?
 - b. what have these funds received by the Government from the Councils under administration been spent on?
3. Did the Minister for Local Government mislead the House in his answer 1276?
4. Will the Premier ensure that a full review of all payments made by Councils is undertaken and a report provided as to whether the respective Councils are being charged correctly and that no Administrator is being paid by both the State Government and Council?
5. Is Mr Persson receiving both salary and expenses from Warringah Council and the State Government?
6. Why do the Warringah Council Annual Reports state that Mr Persson has received reimbursement for expenses each year between \$200,000 and \$208,000 from Warringah Council when Mayor and Councillor fees are being paid to the State Government?

Question asked on 1 April 2008 (session 54-1) and printed in [Questions & Answers Paper No. 42](#).
No answer has been published

1505—DISPLACED DIRECTOR GENERAL

Ms Ficarra to the Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance representing the Premier, Minister for Citizenship—

1. On what date did Mr Dick Persson become a displaced Director General?
2. At the time of displacement, what was the date of expiration of Mr Persson's SES contract?
3. On what date was Mr Persson's SES contract renewed and on what terms?
4. What is the date of expiry for Mr Persson's current SES contract?
5. Is Mr Persson subject to the Code of Conduct for Senior Executive Service Officers?
6. Will the Premier ensure that the issues raised in the Question on Notice 1274, asked on 4 December 2007 are fully investigated by the Department of Premier and Cabinet?
 1. If not, why not?

7. Following Mr Persson's representations to you for the appointment of the Director General of either the Premier's Department or Cabinet, what were the reasons for not appointing him?
8. Is Mr Persson's appointment as Administrator of Port Macquarie Council a result of the Government's refusal to appoint him a Departmental Director General?
9. What Boards and other organisations has the Government appointed Mr Persson to and what is the salary for each appointment?
10. Does Mr Persson have an SES Credit Card?
 1. If so, what has been the expenditure on that card for the following financial years:
 1. 2003/2004?
 2. 2004/2005?
 3. 2005/2006?
 4. 2006 to present?
11. Is it true that Mr Persson has a Warringah Council Credit Card and that on more than one occasion he has been required to pay back certain moneys due to such payments not falling within his role as Administrator?
 1. If so,
 1. Is this conduct contrary to the Code of Conduct of Senior Executive Service Officers?
 2. Will you ensure that Mr Persson's use of the Warringah Council Credit card is fully investigated by your Department?
 2. If not, why not?
12. What salary will Dick Persson receive as Administrator of Port Macquarie Council?
13. Will he receive two salaries and other allowances for being Administrator of both Port Macquarie and Warringah Council?
 1. If so, what is the total amount of salary, allowances and any other payments he will receive for the period 4 March 2008 to 30 September 2008 as Administrator of both Councils?
14. What is the total amount of salary and allowances Mr Persson receives for all his State Government appointments?

Answer—

1. Mr Persson became an unattached CES officer following the abolition of the former Department of Public Works and Services.
2. At the time of his unattachment as a CES officer Mr Persson's appointment was current until 3 December 2004.
3. Mr Persson was subsequently appointed to an SES position in the Department of Premier and Cabinet with effect from 4 December 2004. The appointment was for a five year period expiring on 27 September 2008.
4. 27 September 2008.
5. As an SES officer of the Department of Premier and Cabinet Mr Persson is subject to the Code of Conduct for officers of the Department of Premier and Cabinet. Mr Persson is also subject to any whole of government codes by virtue of his appointment to an SES position in the Department of Premier and Cabinet.
6. Question 1274 of 4 December 2007 is a matter for the Minister for Local Government.

7. Ms Robyn Kruk was appointed Director General of the Department of Premier and Cabinet following the retirement of Dr Colin Gellatly. The question is irrelevant.
8. Mr Persson's appointment as Administrator, Port Macquarie Council is a matter for the Minister for Local Government.
9. During his appointment as Administrator of Warringah Council Mr Persson has held appointment to a number of Boards. The remuneration for each Board has been paid to his employer, the Department of Premier and Cabinet.
10. There is no such item as an SES credit card. For the record Mr Persson does not hold a Department of Premier and Cabinet credit card.
11. This is a question more appropriately responded to by the Minister for Local Government.
12. As Administrator of Port Macquarie Council Mr Persson will only receive his remuneration as an SES officer of the Department of Premier and Cabinet. Any fees as Administrator will be paid to the Department of Premier and Cabinet.
13. See answer to Question (12). Mr Persson is remunerated by the Department of Premier and Cabinet as an SES officer.
14. Mr Persson is only remunerated as an officer of the Department of Premier and Cabinet.

Question asked on 4 March 2008 (session 54-1) and printed in [Questions & Answers Paper No. 39](#).
Answer printed in [Questions & Answers Paper No. 45](#).

1500—PROPOSED DEE WHY TOWN CENTRE AND WARRINGAH LOCAL ENVIRONMENT PLANS

Ms Ficarra to the Treasurer, Minister for Infrastructure, and Minister for the Hunter representing the Minister for Planning, Minister for Redfern Waterloo, Minister for the Arts—

1. What is the Minister's response to the Petition I tabled on Tuesday 26 February 2008 concerning the proposed Dee Why Town Centre and Warringah Local Environment Plans?
2. Will the Minister refer the Petition to his Director General and ensure that the request of the Petitioners for an independent investigation of Warringah Council's handling of the proposals are the subject of an independent investigation?
 - a. If not, why not?

Answer—

I am advised:

1. The Dee Why Town Centre LEP has finished exhibition. I am advised that Council received some 900 submissions, including petitions. The Administrator is to consider a report on the draft exhibited LEP from Council staff on 5 May 2008.
2. The Director-General will be asked to review the petition when the Section 69 Report is sent to the Department for consideration prior to my consideration.
 - a. Not relevant.

Question asked on 4 March 2008 (session 54-1) and printed in [Questions & Answers Paper No. 39](#).
Answer printed in [Questions & Answers Paper No. 45](#).

1507—DEE WHY TOWN CENTRE AND LOCAL ENVIRONMENT PLAN

Ms Ficarra to the Treasurer, Minister for Infrastructure, and Minister for the Hunter representing the Minister for Planning, Minister for Redfern Waterloo, Minister for the Arts—

1. Has Mr Dick Persson and/or any officer of Warringah Council met with you over the last two years?
 - a. If so,
 - i. on what dates?
 - ii. what was the purpose of such meetings?
 - iii. what issues were discussed?
2. Has Mr Dick Persson and/or any officer of Warringah Council met with any of your Departmental officers?
 - a. If so,
 - i. on what dates?
 - ii. what was the purpose for such meetings?
3. Has Mr Dick Persson and/or any officer of Warringah Council met with you over the last two years to discuss the Dee Why Town Centre and the proposed Dee Why Town Centre LEP?
 - a. If so,
 - i. on what dates?
 - ii. what was the purpose of these meetings?

Answer—

1. I have met with the Administrator and officers of Warringah Council on several occasions to discuss planning matters relevant to the Council.
2. The Department maintains an ongoing dialogue with Council and its staff on a range of planning matters.
3. Refer to answer to question 1.

Question asked on 4 March 2008 (session 54-1) and printed in [Questions & Answers Paper No. 39](#).
Answer printed in [Questions & Answers Paper No. 45](#).