

MINUTES

ORDINARY MEETING OF COUNCIL

at 6.00 pm

Monday 11 February 2013

Present

Lord Mayor – Councillor Bradbery OAM (in the Chair), Councillors Kershaw, Connor, Brown, Takacs, Martin, Blicavs, Dorahy, Colacino, Crasnich, Curran and Petty

In Attendance

General Manager – D Farmer, Director Corporate and Community Services – Creative, Engaged and Innovative City – G Doyle, Director Infrastructure and Works – Connectivity, Assets and Liveable City - P Kofod, Director Planning and Environment – Nature, City and Neighbourhoods – A Carfield, Manager Governance and Information – L Kofod, Manager Finance – B Jenkins, Manager Property and Recreation – P Coyte, Manager City Works - K Mondal and Manager Infrastructure – G Whittaker

Apologies

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- 15** **RESOLVED UNANIMOUSLY** on the motion of Councillor Dorahy seconded Councillor Connor that the apology tendered on behalf of Councillor Merrin be accepted.

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DISCLOSURE OF INTEREST

Councillor Martin declared a non-significant, non-pecuniary interest in Item 1, due to her employment at the Department of Planning and Infrastructure.

CONFIRMATION OF MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 29 JANUARY 2013

- 16** **RESOLVED UNANIMOUSLY** on the motion of Councillor Brown seconded Councillor Curran that the Minutes of the Ordinary Meeting of Council held on Tuesday, 29 January 2013 (a copy having been circulated to Councillors) be taken as read and confirmed.

PUBLIC ACCESS FORUM – DRAFT FREIGHT AND PORTS STRATEGY AND PROPOSED INCREASE OF ROAD HAULAGE OF QUARRY PRODUCTS FROM BORAL QUARRY AT DUNMORE

Dr P Laird advised that the NSW Government currently has a Draft Freight and Ports Strategy on exhibition. The Draft Strategy regards the Maldon Dombarton rail link as a longer term measure. Its numerous tasks include "Developing a Port Kembla growth plan" that does little to ensure that Port Kembla will get a container handling facility this decade and to "Mitigate noise from freight operations". Dr Laird said that Mt Ousley Road gets just one mention in the entire Strategy with no comment about extra lanes or an underpass or overpass at or near the intersection of Mt Ousley Road and the F6. Accordingly, the Wollongong Transport Coalition (WTC), and also Neighbourhood Forum 5, requests that Council make a formal submission to the Draft NSW Freight and Ports Strategy.

In addition, WTC would be grateful if Council would make a submission to the NSW Department of Planning and Infrastructure expressing concern on behalf of residents and ratepayers for proposals currently on exhibition to increase the road haulage of quarry products from Boral's quarry at Dunmore by 0.5 million tonnes per annum. Given the high number of heavy trucks already on Mt Ousley Road, Dr Laird asked that Council support a view that none of the extra road haulage from Dunmore end up on Mt Ousley Road and that the option of haulage by rail should be further investigated.

- 17** **RESOLVED UNANIMOUSLY** on the motion of Councillor Brown seconded Councillor Connor that Dr P Laird be thanked for his presentation and invited to table his notes if he so desires, and Ms S Jobson be thanked for her presentation at the 29 January 2013 Council meeting in relation to Dapto Traffic matters.

ITEM A - LORD MAYORAL MINUTE – ADDITION TO THE SPECIFIC EXPENSES DETAILED IN THE PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO LORD MAYOR AND COUNCILLORS POLICY

MOVED Councillor Bradbery that –

- 1 The draft revised Payment of Expenses and Provision of Facilities to Lord Mayor and Councillors Policy be adopted in principle.
- 2 The draft revised Payment of Expenses and Provision of Facilities to Lord Mayor and Councillors Policy be placed on public exhibition for a period of 28 days, with the following addition to Specific Expenses, in relation to protection expenses:

Protection Expenses and Obligations

Council may assist in providing protection to Councillors from any adverse security breaches to their person or property. Approval of the General Manager must be sought and gained prior to any expenses being incurred by Councillors.

The General Manager will determine requests after consultation with the NSW Police as to the risk and history of the matter. These protection measures may take the form of a security assessment, installation of a security system and/or physical monitoring.

Council will, subject to substantiation, reimburse Councillors for expenses that they may incur up to a limit of \$2,000 per year.

Should an amount above the \$2,000 per year limit be required by any Councillor, the matter will be referred to Council for determination.

- 3 A further report be submitted to the Council meeting on 8 April 2013 following the closure of the advertising period and consideration of submissions.
- 4 The report to Council investigate Council's responsibilities in this area with respect to the NSW Work Health and Safety Act 2011, and canvass the appropriateness of pursuing these matters under the Act or via Council's Expenses and Facilities Policy.
- 5 The report to include any similar policies that have been endorsed by other Councils.
- 6 The report to Council also advise security measures provided to the residential properties of State and Federal Members of Parliament.

Variations *The variations put forward by Councillor Brown (point 4 of the above motion) and by Councillor Kershaw (points 5 and 6 of the above motion) were accepted by the Lord Mayor.*

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An AMENDMENT was MOVED by Councillor Petty seconded Councillor Curran that -

- 1 The draft revised Payment of Expenses and Provision of Facilities to Lord Mayor and Councillors Policy be adopted in principle.
- 2 The draft revised Payment of Expenses and Provision of Facilities to Lord Mayor and Councillors Policy be placed on public exhibition for a period of 28 days, with the following addition to Specific Expenses, in relation to protection expenses:

Protection Expenses and Obligations

Council may assist in providing protection to Councillors from any adverse security breaches to their person or property. Approval of the General Manager must be sought and gained prior to any expenses being incurred by Councillors.

The General Manager will determine requests after consultation with the NSW Police as to the risk and history of the matter. These protection measures may take the form of a security assessment, installation of a security system and/or physical monitoring.

Council will, subject to substantiation, reimburse Councillors for expenses that they may incur up to a limit of \$2,000 per year.

Should an amount above the \$2,000 per year limit be required by any Councillor, the matter will be referred to the General Manager, Independent Chair of the Corporate Governance Committee and the Professional Conduct Coordinator for determination.

- 3 A further report be submitted to the Council meeting on 8 April 2013 following the closure of the advertising period and consideration of submissions.
- 4 The report to Council investigate Council's responsibilities in this area with respect to the NSW Work Health and Safety Act 2011, and canvass the appropriateness of pursuing these matters under the Act or via Council's Expenses and Facilities Policy.
- 5 The report to include any similar policies that have been endorsed by other Councils.
- 6 The report to Council also advise security measures provided to the residential properties of State and Federal Members of Parliament.

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18 A **FORESHADOWED AMENDMENT** was **MOVED** by Councillor Takacs seconded Councillor Martin that –

- 1 The draft revised Payment of Expenses and Provision of Facilities to Lord Mayor and Councillors Policy be adopted in principle.
- 2 The draft revised Payment of Expenses and Provision of Facilities to Lord Mayor and Councillors Policy be placed on public exhibition for a period of 28 days, with the following addition to Specific Expenses, in relation to protection expenses:

Protection Expenses and Obligations

Council may assist in providing protection to Councillors from any adverse security breaches to their person or property. Approval of the General Manager must be sought and gained prior to any expenses being incurred by Councillors.

The General Manager will determine requests after consultation with the NSW Police as to the risk and history of the matter. These protection measures may take the form of a security assessment, installation of a security system and/or physical monitoring.

Council will, subject to substantiation, reimburse Councillors for expenses that they may incur up to a limit of \$2,000 per year.

Should an amount above the \$2,000 per year limit be required by any Councillor, the matter will be referred to Council for determination after taking advice from the General Manager, Independent Chair of the Corporate Governance Committee and/or the Professional Conduct Coordinator.

- 3 A further report be submitted to the Council meeting on 8 April 2013 following the closure of the advertising period and consideration of submissions.
- 4 The report to Council investigate Council's responsibilities in this area with respect to the NSW Work Health and Safety Act 2011, and canvass the appropriateness of pursuing these matters under the Act or via Council's Expenses and Facilities Policy.
- 5 The report to include any similar policies that have been endorsed by other Councils.
- 6 The report to Council also advise security measures provided to the residential properties of State and Federal Members of Parliament.

Variation *The variation put forward by Councillor Blicavs (the addition of the word 'or' to the last paragraph of the proposed change to the policy, ie 'Should an amount above the \$2,000 per year limit be required by any*

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Councillor, the matter will be referred to Council for determination after taking advice from the General Manager, Independent Chair of the Corporate Governance Committee and/or the Professional Conduct Coordinator' to the Foreshadowed Amendment) was accepted by the mover and seconder.

The AMENDMENT on being PUT to the VOTE was LOST.

In favour
Against

Councillors Curran and Petty

Councillors Kershaw, Connor, Brown, Martin, Takacs, Blicavs, Dorahy, Colacino, Crasnich and Bradbery

The FORESHADOWED AMENDMENT then became the AMENDMENT.

The AMENDMENT on being PUT to the VOTE was CARRIED UNANIMOUSLY.

The AMENDMENT then BECAME the MOTION.

The MOTION on being PUT to the VOTE was CARRIED UNANIMOUSLY.

Councillor Curran requested that the Lord Mayor consider a Matter of Great Urgency in relation to the proposed exhibition of the Payment of Expenses and Provision of Facilities to Lord Mayor and Councillors policy.

The Lord Mayor ruled Councillor Curran's proposed motion out of order.

A MOTION OF DISSENT on the Lord Mayor's ruling was MOVED by Councillor Curran.

The MOTION OF DISSENT on being PUT to the VOTE was LOST.

In favour
Against

Councillors Takacs, Curran and Petty

Councillors Kershaw, Connor, Brown, Martin, Blicavs, Dorahy, Colacino and Crasnich

DEPARTURE OF COUNCILLOR

During consideration of the Matter of Great Urgency and prior to voting on this matter, Councillor Takacs departed and returned to the meeting, the times being from 6.41 pm to 6.43 pm.

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MATTER OF GREAT URGENCY – SUBMISSION ON DRAFT FREIGHT AND PORTS STRATEGY AND INCREASED ROAD HAULAGE

Councillor Curran advised that she wished to put forward a motion which she considered to be urgent due to time constraints. The motion related to submissions by Council on the Draft Freight and Ports Strategy, as well as the proposed increase of road haulage from the Boral Quarry at Dunmore.

The Lord Mayor deemed Councillor Curran's motion to be a Matter of Great Urgency.

19 **RESOLVED UNANIMOUSLY** on the motion of Councillor Connor seconded Councillor Martin that Council consider a matter relating to submissions on the Draft Freight and Ports Strategy and the proposed increase of road haulage from the Boral Quarry at Dunmore.

In favour Councillors Kershaw, Connor, Brown, Martin, Takacs, Curran, Petty and Bradbery

Against Councillors Blicavs, Dorahy, Colacino and Crasnich

20 **RESOLVED UNANIMOUSLY** on the motion of Councillor Curran seconded Councillor Petty that –

- 1 Council make an urgent submission to –
 - a The Draft Freight and Port Strategy.
 - b The NSW Department of Planning and Infrastructure regarding the Boral Quarry extension.
- 2 Council utilise the expertise and information provided by Dr Philip Laird and the submission also include concerns regarding traffic congestion, noise impact, air pollution, road damage and safety.
- 3 Council make representations to the Minister for Finance and Services and Minister for the Illawarra, The Hon. Greg Pearce MLC, and the Minister for Roads and Ports and Deputy Leader of the Government in the Legislative Council, The Hon. Duncan Gay MLC, along with local NSW Government MPs and local Members of the NSW Opposition, to assist economic growth through improved transport infrastructure.

Variation *The variation put forward by Councillor Brown (the addition of the words to point 2 'and the submission also include concerns regarding traffic congestion, noise impact, air pollution, road damage and safety') and the variation put forward by Councillor Dorahy (the addition of point 3 to the above motion) were accepted by the mover and seconder.*

CALL OF THE AGENDA

- 21** **RESOLVED UNANIMOUSLY** on the motion of Councillor Brown seconded Councillor Crasnich that the staff recommendations for Items 2, 3 and 6, be adopted as a block.

ITEM 1 - DRAFT PLANNING PROPOSAL FOR 47 - 49 BORONIA AVENUE, WINDANG

- 22** **RESOLVED** on the motion of Councillor Martin seconded Councillor Crasnich that –

- 1 A draft Planning Proposal proceed for 47-49 Boronia Avenue, Windang (Lot 51 DP 554443 and Lot 102 DP 1078687) to rezone the site E4 Environmental Living with a minimum lot size of 1000 square metres which may provide 10-12 dwellings on site (Option 2 of the report).
- 2 A covering letter noting Council's reasons for its decision be provided with the planning proposal submitted to the NSW Department of Planning and Infrastructure.

Variation *The variation put forward by Councillor Curran (point 2 of the above motion) was accepted by the mover and seconder.*

In favour Councillors Kershaw, Connor, Brown, Martin, Blicavs, Dorahy, Crasnich, Curran, Petty and Bradbery
Against Councillors Takacs and Colacino

ITEM 2 - PROPOSED SUBURB BOUNDARY ADJUSTMENT BETWEEN UNANDERRA AND FIGTREE - PUBLIC CONSULTATION

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 21).

COUNCIL'S RESOLUTION –

- 1 Council support the proposed adjustment to the suburb boundary location between Figtree and Unanderra.
- 2 The Geographical Names Board of NSW (GNB) be advised of Council's support for the proposal and be requested to formalise the proposed boundary change.

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ITEM 3 - CONSOLIDATION OF WOLLONGONG LOCAL ENVIRONMENTAL PLAN (WEST DAPTO) 2010 AND WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 21).

COUNCIL'S RESOLUTION – A finalised Planning Proposal be forwarded to the NSW Department of Planning and Infrastructure to repeal the Wollongong Local Environmental Plan (West Dapto) 2010 and transfer its provisions into the Wollongong Local Environmental Plan 2009.

ITEM 4 - CHANGES TO THE FUNDING FOR THE SES WOLLONGONG UNIT

23 **RESOLVED UNANIMOUSLY** on the motion of Councillor Brown seconded Councillor Blicavs that -

- 1 Council transfer ownership of the vehicles, presently utilised by the Wollongong SES Unit, to the State Emergency Service.
- 2 Council enter into a partnership agreement with the NSW State Emergency Service.
- 3 Council continue to make a monetary donation (currently amounting to \$7,957) to the Wollongong SES Unit.

ITEM 5 - PROPOSED ROAD CLOSURE AND SALE OF PORTION OF CAWLEY STREET, EAST CORRIMAL ADJOINING LOT 356 DP 10422 NO 58 MURRAY ROAD

24 **RESOLVED** on the motion of Councillor Colacino seconded Councillor Kershaw that -

- 1 Council consent to the closure of the portion of Cawley Street, East Corrimal, as shown on the attachments to the report, and upon closure, declare the land Operational land under the Local Government Act 1993.
- 2 Subject to formal closure, Council authorise the sale of the portion of Cawley Street, East Corrimal, as shown on the attachment to the report, to the adjoining owners or their nominee on the following conditions:

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- a A purchase price of \$66,000 (net of GST, the purchase price to be increased by the amount of any GST that Council will be required to remit to the Australian Tax Office as a result of the sale).
 - b The applicants be responsible for all costs including legal, survey and plan lodgement, valuation and any other costs in the matter, including Council's legal costs.
 - c A covenant be placed on the title for the land to protect the trees on the site. This covenant to include a clause that if at some time in the future the trees are damaged, or through age, are removed, they are to be replaced with an appropriate species and number to ensure the streetscape is maintained.
- 3 Authority be granted to affix the Common Seal of Council on the plan of survey, transfer documents and any other documentation required to give effect to this resolution.

A PROCEDURAL MOTION was MOVED by Councillor Petty seconded Councillor Curran that the matter be laid on the table.

The PROCEDURAL MOTION on being PUT to the VOTE was LOST.

In favour Councillors Dorahy, Curran, Petty and Bradbery
Against Councillors Kershaw, Connor, Brown, Martin, Takacs, Blicavs, Colacino and Crasnich

A PROCEDURAL MOTION was MOVED by Councillor Blicavs seconded Councillor Dorahy that the motion be put.

The PROCEDURAL MOTION on being PUT to the VOTE was CARRIED.

In favour Councillors Kershaw, Connor, Brown, Martin, Takacs, Blicavs, Dorahy, Colacino, Crasnich and Bradbery
Against Councillors Curran and Petty

The MOTION on being PUT to the VOTE was CARRIED.

In favour Councillors Kershaw, Connor, Brown, Martin, Takacs, Blicavs, Dorahy, Colacino, Crasnich and Bradbery
Against Councillors Curran and Petty

ITEM 6 - PROPOSED ACQUISITION OF SPLAY CORNER AT LOT 1 DP 998345 NO 90 MARSHALL STREET, DAPTO FOR PEDESTRIAN IMPROVEMENT WORKS

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 21).

COUNCIL'S RESOLUTION –

- 1 Council authorise the acquisition of the splay corner 4.5m² in area, as shown on the attachment to the report, from Lot 1 DP 998345 No 90 Marshall Street, Dapto on the following terms:
 - a Purchase price of \$1,175 (GST exc).
 - b Council be responsible for all costs in this matter.
- 2 Upon the acquisition being finalised, the splay corner be dedicated as public road under Section 10 of the Roads Act 1993.
- 3 Authority be granted to affix the Common Seal of Council to the plan of acquisition, transfer documents and any other documents required to give effect to this resolution.

ITEM 7 - REGIONAL CAPITALS AUSTRALIA CONFERENCE - TRAVEL

- 25** **RESOLVED UNANIMOUSLY** on the motion of Councillor Brown seconded Councillor Crasnich that the Lord Mayor be authorised to travel to Melbourne to attend the Regional Capitals Australia Conference.

DEPARTURE OF COUNCILLOR

During consideration of Item 8 and prior to voting on the item, Councillor Curran departed and returned to the meeting, the times being from 7.56 pm to 7.58 pm.

ITEM 8 - REFURBISHMENT OF CROWN STREET MALL – DETERMINATION OF TENDER ASSESSMENTS T12/42 - SUPPLY OF PAVERS FOR CROWN STREET MALL AND T12/44 - CROWN STREET MALL REFURBISHMENT

26 **MOVED** Councillor Brown seconded Councillor Blicavs that -

- 1 a In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (b), Council decline to accept any of the tenders which Council has received for T12/44 - Crown Street Mall Refurbishment Project and resolve to enter into negotiations with all the parties who lodged tenders or any other parties with a view to entering into a contract in relation to the subject matter of the tender.
 - b The reason for Council hereby resolving to decline to accept any of the tenders is undertaking negotiations with each of the tenderers is expected to result in an overall better outcome for Council.
 - c The reason for Council hereby resolving to enter into negotiations with all tenderers and not inviting fresh tenders is that it is anticipated that a satisfactory outcome can be achieved with one of those parties who have demonstrated a capacity and ability to undertake the works.
- 2 Council delegate to the General Manager the authority to undertake and finalise the negotiations, firstly with the recommended tenderers, and in the event of failure of negotiations with those tenderers, any other parties, with a view to entering into a contract in relation to the subject matter of the tender and to report the outcome of the negotiations to Council with a recommendation that Council authorise a contract be entered into by Council in accordance with the outcome of the negotiations.
- 3 a In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (b), Council decline to accept any of the tenders which Council has received for T12/42 - Supply of Pavers for Crown Street Mall and resolve to enter into negotiations with Beirut Paving (trading as The Sydney Brick Paving Company) and United Stone Aust Pty Ltd or any other parties with a view to entering into a contract in relation to the subject matter of the tender.
 - b The reason for Council hereby resolving to decline to accept any of the tenders is both test panels constructed in accordance with

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the original specification have not satisfied the architectural colour and performance requirements for this project.

- c The reason for Council hereby resolving to enter into negotiations with the two tenderers and not inviting fresh tenders is that it is anticipated that a satisfactory outcome can be achieved with one of those parties who have demonstrated a capacity and ability to undertake the works.
- 4 Council delegate to the General Manager the authority to undertake and finalise the negotiations, firstly with the recommended tenderers and, in the event of failure of negotiations with those tenderers, any other parties, with a view to entering into a contract in relation to the subject matter of the tender and to report the outcome of the negotiations to Council with a recommendation that Council authorise a contract be entered into by Council in accordance with the outcome of the negotiations.
 - 5 The outcomes of these negotiations will be reported back to Council for determination.

An AMENDMENT was MOVED by Councillor Petty seconded Councillor Curran that –

- 1 a In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (b), Council decline to accept any of the tenders which Council has received for T12/44 - Crown Street Mall Refurbishment Project and resolve to enter into negotiations with all the parties who lodged tenders or any other parties with a view to entering into a contract in relation to the subject matter of the tender.
 - b The reason for Council hereby resolving to decline to accept any of the tenders is undertaking negotiations with each of the tenderers is expected to result in an overall better outcome for Council.
 - c The reason for Council hereby resolving to enter into negotiations with all tenderers and not inviting fresh tenders is that it is anticipated that a satisfactory outcome can be achieved with one of those parties who have demonstrated a capacity and ability to undertake the works.
- 2 Council delegate to the City Centre Mall Revitalisation Panel the authority to undertake and finalise the negotiations, firstly with the recommended tenderers and, in the event of failure of negotiations with those tenderers, any other parties, with a view to entering into a

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- contract in relation to the subject matter of the tender and to report the outcome of the negotiations to Council with a recommendation that Council authorise a contract be entered into by Council in accordance with the outcome of the negotiations.
- 3 a In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (b), Council decline to accept any of the tenders which Council has received for T12/42 - Supply of Pavers for Crown Street Mall and resolve to enter into negotiations with Beirut Paving (trading as The Sydney Brick Paving Company) and United Stone Aust Pty Ltd or any other parties with a view to entering into a contract in relation to the subject matter of the tender.
 - b The reason for Council hereby resolving to decline to accept any of the tenders is both test panels constructed in accordance with the original specification have not satisfied the architectural colour and performance requirements for this project.
 - c The reason for Council hereby resolving to enter into negotiations with the two tenderers and not inviting fresh tenders is that it is anticipated that a satisfactory outcome can be achieved with one of those parties who have demonstrated a capacity and ability to undertake the works.
 - 4 Council delegate to the City Centre Mall Revitalisation Panel the authority to undertake and finalise the negotiations, firstly with the recommended tenderers and, in the event of failure of negotiations with those tenderers, any other parties, with a view to entering into a contract in relation to the subject matter of the tender and to report the outcome of the negotiations to Council with a recommendation that Council authorise a contract be entered into by Council in accordance with the outcome of the negotiations.
 - 5 The outcomes of these negotiations will be reported back to Council for determination.
 - 6 The City Centre Mall Revitalisation Panel consist of the General Manager, an Independent Member of the Internal Audit Committee, as available, and Councillor Petty.
 - 7 The City Centre Major Projects Steering Committee shall report to the City Centre Mall Revitalisation Panel who shall have responsibility for the City Centre Mall revitalisation.

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The AMENDMENT on being PUT to the VOTE was LOST.

In favour Councillors Curran and Petty

Against Councillors Kershaw, Connor, Brown, Martin, Takacs, Blicavs, Dorahy, Colacino, Crasnich and Bradbery

The MOTION was PUT and CARRIED.

In favour Councillors Kershaw, Connor, Brown, Martin, Takacs, Blicavs, Dorahy, Colacino, Crasnich and Bradbery

Against Councillors Curran and Petty

THE MEETING CONCLUDED AT 8.22 PM

Confirmed as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Wollongong held on 25 February 2013.

Chairperson