



## MINUTES

# ORDINARY MEETING OF COUNCIL

at 6.00 pm

**Monday 27 April 2015**

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### Present

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

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### 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 – M Hyde, Director Planning and Environment – Future, City and Neighbourhoods – A Carfield, Manager Governance and Information – L Kofod, Manager Finance – B Jenkins, Manager Property and Recreation (Acting) – P Dorahy, Manager Environmental Strategy and Planning – R Campbell and Manager Community Cultural and Economic Development (Acting) – S Savage

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## DISCLOSURES OF INTERESTS

Councillor Dorahy declared a pecuniary interest in Items C and 1 as he holds shares in Skydive The Beach.

Councillor Martin declared a non-significant, non-pecuniary interest in Items B and 4 as they relate to Planning Proposals. Councillor Martin is employed by the Department of Planning and Environment, however she advised that these proposals do not cross over into her area of work.

Councillor Takacs declared a non-significant, non-pecuniary interest in Item 4 due to his employment at the University of Wollongong. Councillor Takacs advised that he would absent himself from the meeting during debate and voting on this Item.

Councillor Petty declared a non-significant, non-pecuniary interest in Items 9 and 10. He advised that this declaration has been made as he has previously declared significant pecuniary interest with tenderers named in Items 9 and 10, but noted that they are not the preferred tenderers and that ownership of these companies has changed from people who he had dealt with in the past.

## CONFIRMATION OF MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON MONDAY, 30 MARCH 2015

**41** **COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Crasnich that the Minutes of the Ordinary Meeting of Council held on Monday, 30 March 2015 (a copy having been circulated to Councillors) be taken as read and confirmed.

## PUBLIC ACCESS FORUM – PROVISION OF DISABLED ACCESS – UNANDERRA RAILWAY STATION

On behalf of the Unanderra Access Group, Ms R Schmidt, was seeking Council's support in order to improve access for all to Unanderra Railway Station. She said that the problem had been ongoing for over 20 years with Mr R Kramer leading the campaign. She also stated that she had become involved after seeing the degrading way Mr T Lindon (double amputee) and Ms W Richardson (81 years of age, and carrying luggage) had to navigate the stairs at the station. She said that she had originally been filming herself in order to capture how difficult it was for her to access the station and she subsequently asked for permission to include Mr Lindon and Ms Richardson in her footage.

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Ms Schmidt urged Council to review the documentation she had supplied and to acknowledge the severe gap between the applicable laws and the situation occurring at Unanderra Railway Station.

The following notes provided by Mr R Kramer, were read out on his behalf by Ms R Schmidt -

*I have been campaigning for around 20 years to try and get Unanderra train station accessible for all. I was starting to get very disillusioned by the whole process; the constant knock-backs by Transport Ministers from 16 years of Labor and the last few years of Liberal, telling me we need to meet certain criteria (tourism, medical and shopping) to justify the easy access upgrade. But that was until a recent video of people struggling up the stairs went viral and showed the plight of regular users of the station.*

*Mr Kramer felt that the criteria requested by Transport Ministers, along with important additional criteria have been met, as follows -*

*Tourism: The Nan Tien Temple which is only about a 10 minute walk from the station attracts up to 100,000 visitors every year and is now an educational institute and also provides accommodation for visitors. Wests Leagues Club is also within close proximity to the station.*

*Medical: We have three Nursing Homes within close proximity to the station, one being less than 500m away.*

*Shopping: Woolworths and Country Grocer are less than 300m from the station, as are lots of little boutique stores and great places to eat.*

*Industrial Estate: We have a large industrial estate less than five minutes' walk from the station.*

*Education: On the Unanderra side of the station, there are five schools.*

*With all of the above items well and truly covered, Mr Kramer could not see how the provision of access to Unanderra Railway Station can continue to be denied.*

## **PUBLIC ACCESS FORUM – PERFORMANCE REVIEW COMMITTEE**

On behalf of Save Our Services Wollongong, Mr S Spencer felt the Lord Mayor's Minute, and what has led to it, epitomises everything that is currently wrong with Wollongong City Council.

Mr Spencer said that it reflects the general modus operandi of this Council – secret negotiations with vested business interests, and secret performance reviews of its General Manager, overseen by a Councillor or Councillors who receive secret briefings from him and his staff behind closed doors, rather than conducting properly rigorous reviews of the General Manager's performance and engaging openly and publicly with the community and ratepayers, whom they are elected to serve.

## **PUBLIC ACCESS FORUM – COMMERCIAL SKYDIVING IN WOLLONGONG**

Mr S Melchior, owner of Just Cruisin' Harley Davidson Motorcycle Tours, advised that he had worked with Skydive The Beach for more than a decade. He had watched Skydive grow into an amazing company, committed to showcasing the beauty of Wollongong, while actively promoting Wollongong as a place of adventure and fun.

He said that when no-one else could make it happen, they built a business from the ground up and have invested in the region every step of the way. Now they have done the hard work, Council is considering giving others the chance to step in and take the glory. All that says is we punish success and that Wollongong is not committed to people or businesses that conversely have shown they are committed to the city. In conclusion, Mr Melchior said that without stability, there can be no growth.

Ms S McKay raised the issue of transparency and openness and she felt that to date, the process in this matter had been of great concern. The proposal considered by the Independent Hearing and Assessment Panel had been changed, with 18 flights (maximum) increasing to 28 flights per day. She said that 28 flights a day equated to 56 aircraft movements and this was a dramatic increase particularly given there was no environmental assessment. The noise will impact on the community. Ms McKay raised the issue of the use of prime community land by a company which makes millions. She also mentioned that the hangar went to Illawarra Hangar for \$7,000, who then leased it to Skydive for \$95,000.

In conclusion, Ms McKay questioned why Council would lease prime public (Crown) land to a specific user, at the expense of other users of Stuart Park.

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Mr S Crinis, General Manager of Diggies Wollongong, voiced his support for Council continuing to engage in direct negotiations with Skydive The Beach in relation to ongoing lease agreements because of the commitment, foresight and engagement the company has shown to this region.

He said that Skydive The Beach has built a strong business from scratch which has proven benefits in job creation, tourism and promotion of the region as well as flow-on effects to multiple businesses including his own. As a businessman, he had seen the strong impact on our City's economy and as a resident he enjoys the vibrancy Skydive brings to his City. Skydive The Beach are to be commended.

### **PUBLIC ACCESS FORUM – BRIDGE STREET THEATRE SITE**

Dr Janys Hayes said that after the closure of the Bridge Street Theatre in 2003, until its reopening in 2007, this vital and historic building was left empty and in a rapid state of decay. In 2007 the Phoenix Theatre took over the administration of the theatre, whilst VOX FM ran the community hall. The Phoenix is now an incorporated company and more than \$500,000 has been invested in the building by Phoenix management. The Theatre as it stands can no longer be considered the same building as the one that was initially handed over by Council. As a Board Member, Dr Hayes said that any consideration of reclaiming the building for use, other than for the Phoenix Company, would mean that compensation would need to be provided to Phoenix to cover the amounts invested in the building infrastructure.

Dr Hayes pointed out that the financial security of running any theatre, even a community theatre in this economic climate is not a simple task. She had seen numerous theatre companies close over that time, all with great intentions and artistic visions. It takes a certain kind of energy to keep any company afloat and Dr Hayes believed that Council could pass the Bridge Street Theatre space on to numerous people whose visions may look interesting on paper but the space may well end up bankrupt again within a matter of years. She concluded by saying that Council already had a Theatre Director who has proved his energy and commitment from 2007 – 2015. He has the ability to respond to the artistic community and who, with the Board and without any federal grants, is running the space successfully.

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Mr G Shand supported the report's recommendations. He said that as an international professional performer of 40 years, it was vital to keep the Phoenix as it is with its present occupiers as the space offers –

- Opportunities for young professionals to train and grow;
- Affordable opportunities for professionals to try out new material and shows;
- Affordable hire and space for local dance groups and multicultural groups to perform in;
- A theatre space not just a hall; and,
- Affordable, locally produced and performed theatre.

**42 COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Martin that all speakers be thanked for their presentation and invited to table their notes.

### CALL OF THE AGENDA

**43 COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Blicavs that the staff recommendations for Items 5 to 13 inclusive, be adopted as a block.

### DISCLOSURE OF INTEREST

Councillor Connor declared a non-significant, non-pecuniary conflict of interest in Item A as his Aunty was mentioned in the public address by Ms R Schmidt.

### ITEM A – LORD MAYORAL MINUTE - PROVISION OF DISABLED ACCESS TO UNANDERRA RAILWAY STATION

**44 COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Bradbery that –

- 1 Wollongong City Council support the Unanderra and surrounding community in their endeavours to have disabled access installed at Unanderra Railway Station, which includes consideration of various options, including the renewal of the level crossing or the installation of a lift.
- 2 Council write to the Minister for Transport and Infrastructure, The Hon. Andrew Constance MP, in consultation with the Unanderra



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Access Group, highlighting the necessity for disabled access to Unanderra Railway Station and reinforcing the need for this access to be given high priority.

- 3 Council acknowledges the work of the Unanderra Access Group in their campaign for easy access for disabled, elderly and disadvantaged commuters.

*Variation The variations moved by –*

- *Councillor Merrin to include the following words to Part 1 ‘which includes consideration of various options, including the renewal of the level crossing or the installation of a lift’; and,*
- *Councillor Connor – the inclusion of Part 3,*

*were accepted by the Lord Mayor.*

## **SUSPENSION OF STANDING ORDERS**

A PROCEDURAL MOTION was MOVED by Councillor Brown seconded Councillor Takacs that Standing Orders be suspended and Item D be considered as the last Item of business, followed by the Closed Council Session.

## **ITEM D - LORD MAYORAL MINUTE - PERFORMANCE REVIEW COMMITTEE**

This Item was considered under Suspension of Standing Orders, as the last Item of Business, prior to Closed Council.

## **DISCLOSURE OF INTEREST**

Councillor Petty declared a non-pecuniary, non-significant conflict of interest in Item B due to the fact that the words ‘Lady Carrington Estate South Planning Proposal’ were removed from Councillor Curran’s original Notice of Motion and this now meant that the whole area is included. He declared this interest as a resident of Helensburgh, who lives within 200 metres of 7D land.

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## **ITEM B – NOTICE OF MOTION - COUNCILLOR CURRAN - LADY CARRINGTON ESTATE SOUTH PLANNING PROPOSAL**

**45** **COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Curran seconded Councillor Merrin that Council -

- 1 Conduct a comprehensive search of all Flora/Fauna, Environmental and Water studies, investigations, agency submissions and documents for the “7(D) Lands” and collate these into a file that can be accessed by Council and available for land owners and the community.
- 2 In addition to the collation of the above information, where the Council Officers do not have the expertise to review any applicant’s studies and independent reviews are required, that the cost be fully recovered from the proponent.
- 3 Write to the NSW Department of Planning and Environment seeking clarity as to the parcels of land that are to be considered and assessed in the Planning Proposal area, and request that studies are limited to that area and not neighbouring parcels of land.
- 4 Write to the Minister for Planning, The Hon. Rob Stokes MP, and NSW Department of Planning and Environment requesting an update on the assessment process of the Wollongong City Council 7D Lands Proposal, and draw the Minister’s attention to Council’s concern at the delay.

## **ITEM C - ITEM LAID ON TABLE - COUNCIL MEETING 9 MARCH 2015 - NOTICE OF MOTION - COUNCILLOR PETTY - SKYDIVING ACTIVITIES - STUART AND DALTON PARKS**

A PROCEDURAL MOTION was MOVED by Councillor Brown seconded Councillor Martin that –

- 1 The matter be taken off the table and all speaking rights be reinstated and debate recommence on this Item.
- 2 Item C and Item 1 be considered concurrently.

On 9 March 2015 Councillor Petty seconded Councillor Curran MOVED that -

- 1 Council obtain a valuation from the Government Valuer on the use of land at Stuart and Dalton Parks for skydiving activities.
- 2 Council call for competitive tenders for the use of Stuart and Dalton

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Parks for skydiving activities.

- 3 Authority to execute leases over Stuart and/or Dalton Parks shall be by resolution of Council.
- 4 A report be submitted to Council which provides a full history from the original to current leases and licences, development approvals, including variations and amendments, rent and market reviews, market valuations and processes undertaken to award leases and licences, together with all documentation relating in any way to current commercial operators or any related entities.

A PROCEDURAL MOTION was MOVED by Councillor Petty seconded Councillor Curran that his motion not be put. Item C was subsequently withdrawn.

## DEPARTURE OF COUNCILLORS

Due to an earlier disclosure of interest, Councillor Dorahy was not present during debate and/or voting on Items C and 1.

The following Councillors departed during the debate on Item 1 and returned prior to voting on the Item –

- Councillor Colacino from 7.58 pm to 8.00 pm,
- Councillor Crasnich from 8.18 pm to 8.19 pm,
- Councillor Connor from 8.36 pm to 8.37 pm,
- Councillor Blicavs from 8.47 pm to 8.50 pm, and
- Councillor Martin from 8.47 pm to 8.50 pm.

Prior to voting on Councillor Blicavs' motion, the time being 9.40 pm, the Lord Mayor vacated the Chair, and the Deputy Lord Mayor, Councillor Connor, assumed the Chair.

The Lord Mayor returned to the meeting and resumed the Chair at 9.41 pm.

During the debate on Item 1, the following PROCEDURAL MOTIONS to allow additional time for Councillors to address the meeting were CARRIED –

- Councillor Martin seconded Councillor Blicavs – five minutes for Councillor Brown to address meeting in relation to his Foreshadowed Motion;

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- Councillor Crasnich seconded Councillor Martin – five minutes for Councillor Blicavs to address meeting in relation to her Foreshadowed Motion;
- Councillor Martin seconded Councillor Blicavs – five minutes for Councillor Kershaw;
- Councillor Crasnich seconded Councillor Blicavs – five minutes for Councillor Colacino;
- Councillor Martin seconded Councillor Petty – five minutes for Councillor Curran; and,
- Councillor Blicavs seconded Councillor Colacino – five minutes for Councillor Connor.

## **ITEM 1 - COMMERCIAL SKYDIVING IN WOLLONGONG**

MOVED by Councillor Merrin seconded Councillor Curran that -

- 1 The Blue Mile Master Plan be reviewed.
- 2 Council cease allowing skydiving at Stuart Park within five years, as recommended by the Urban Planner member of the Independent Hearing and Assessment Panel.
- 3 Council support continuation of skydiving at Dalton Park, east of the cycleway.
- 4 Council call for Proposals which will undertake Skydiving at Dalton Park.
- 5 Council –
  - a Notes that a procedure is available to Trustees under Section 63 (1) and (2) of the Trustee Act of NSW to seek advice –
    - i A trustee may apply to the Court for an opinion advice or direction on any question respecting the management or administration of the trust property, or respecting the management or administration of the trust instrument.
    - ii If the trustee acts in accordance with the opinion, advice or direction, the trustee shall be deemed so far as regards the trustee's own responsibility, to have discharged the trustees duty in the subject matter of the application, provided that the trustee has not been guilty of fraud or wilful concealment or misrepresentation in obtaining the opinion advice or direction.

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- b Council as Trustee and Manager of the affairs of Stuart Park that was gazetted originally in 1884 for public park, ground for public recreation or as a place for bathing, seeks the advice of the Supreme Court under Section 63 of the Trustees Act as to whether the principles laid down in case law of Council of the Municipality of Randwick v Rutledge (1952) 102 CLR 54, 88 apply to Stuart Park.
- c The advice received by the Supreme Court come to Council prior to any further leases being negotiated or granted on Stuart Park.

6 The recommendations be reported to Council.

*Variation The variation moved by Councillor Curran (the addition of Point 5) was accepted by the mover.*

Councillor Brown and then Councillor Blicavs FORESHADOWED MOTIONS should Councillor Merrin's Motion be defeated.

Councillor Merrin's MOTION on being PUT to the VOTE was LOST.

*In favour* Councillors Merrin and Curran

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

Following the defeat of Councillor Merrin's Motion, Councillor Brown's FORESHADOWED MOTION became the MOTION.

MOVED by Councillor Brown seconded Councillor Colacino that -

- 1 Council reaffirm its resolution of 28 April 2014 that '*Council support in principle the activity of skydiving at Stuart Park and reaffirm this component of the Blue Mile Master Plan*'.
- 2 Council note that a Call for Proposals will be undertaken and in terms of current policy and delegations, the outcome will be reported back to Council for decision.

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

- 1 Council reaffirm its resolution of 28 April 2014 that '*Council support in principle the activity of skydiving at Stuart Park and reaffirm this component of the Blue Mile Master Plan*'.
- 2 Council note that a Call for Proposals will be undertaken in terms of current policy and delegations, and the detail of the Call for Proposals

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will be referred to Council prior to being issued.

- 3 The outcome of the Call for Proposals be reported to Council for decision.

Councillor Merrin's AMENDMENT on being PUT to the VOTE was LOST.

In favour Councillor Curran

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

Councillor Brown's MOTION was then PUT to the VOTE and was LOST.

In favour Councillor Brown

Against Councillors Kershaw, Connor, Martin, Takacs, Merrin, Blicavs, Colacino, Crasnich, Curran, Petty and Bradbery

A PROCEDURAL MOTION was MOVED by Councillor Curran seconded Councillor Merrin that the matter be considered as part of a Committee of the Whole. The PROCEDURAL MOTION was LOST.

Following the defeat of Councillor Brown's Motion, Councillor Blicavs' FORESHADOWED MOTION became the MOTION.

**46 COUNCIL'S RESOLUTION** - MOVED by Councillor Blicavs seconded Councillor Connor that Council -

- 1 Reaffirm its resolution of 28 April 2014 that '*Council support in principle the activity of skydiving at Stuart Park and reaffirm this component of the Blue Mile Master Plan*'.
- 2 Support skydiving in Stuart Park and Dalton Park;
- 3 Support direct negotiation on a landing zone in Dalton Park and prior to direct negotiation commencing on this landing zone, Council obtain two independent valuations, with the highest valuation being the starting point of negotiations; and,
- 4 Seek approval from the Crown Lands Division [Deputy Director General] to directly deal, and prior to this process starting, Council acquire two independent valuations, the highest will form the basis of our negotiations with the current lessee/licensee to provide licences to land in Stuart Park and Dalton Park, and an agreement to lease to facilitate construction of a building for the following reasons:
  - a Discussions and agreement to proceed to direct negotiation being agreed by Council and the Crown Lands Division in December 2011;

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- b The matters raised in Schedule 3 of the ICAC recommendations on Direct Negotiation can be addressed;
- c The business activity is somewhat unique and has been built into its current level of activity by the efforts of the licensee,
- d The uniqueness is demonstrated by the licensee through his own efforts to established a “CASA Safety Exclusion Zone” over North Wollongong as well as a “Restricted Landing Zone” at Stuart Park and Dalton Park. This and the processes and procedures established has resulted in an accident free operation since establishment in 1998;
- e The business has committed to the region with its National Head Office in Wollongong and the servicing of its 16 aircraft servicing the east coast of Australia at Illawarra Regional Airfield at Albion Park;
- f The Federal Government provided \$815,000 by way of an Illawarra Regional Innovation and Investment Fund Grant to support the business growth and provide jobs in the region. SKB have met all of their employment targets of 20 additional full time jobs set by the Government well in advance of the timeline, creating apprenticeships in aeronautical engineering as well as traineeships in business management;
- g The current licensee has built the business from 1,486 jumps in 1999 to 19,000 last year. In this time, two other skydive operators in the City have failed with one moving to the South Coast;
- h The business currently contributes 71 [FTE] direct jobs and an estimated 52 [FTE] indirect jobs to the region. It is estimated also that a further 30 jobs will be generated by the listing and acquisition of another company. These jobs are in the 18-35 age demographic so are meeting the highest demand area for employment in the City;
- i The business contributes direct and indirect gross regional product of \$26.8 million to the region;
- j There are no guarantees that another company could immediately establish at the same level of activity generating the economic benefits currently enjoyed by the City; and
- k The business has shown strong growth, recently listing on the Australian Stock Exchange.

*Variation The variations moved by Councillor Kershaw (the addition of the words to Part 3 ‘and prior to direct negotiation commencing on this landing zone, Council obtain two independent valuations, with the highest valuation being*

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*the starting point of negotiations' and the addition of the words to Part 4 'and prior to this process starting, Council acquire two independent valuations, the highest will form the basis of our negotiations' were accepted by the mover and seconder.*

Councillor Blicavs' MOTION on being PUT to the VOTE was CARRIED.

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

**Against** Councillors Takacs, Merrin, Curran and Petty

## DEPARTURE OF COUNCILLOR

During debate and prior to voting on Item 2, Councillor Crasnich departed and returned to the meeting, the time being from 9.58 pm to 10.00 pm.

## EXTENSION OF MEETING TIME

A PROCEDURAL MOTION was MOVED by Councillor Crasnich seconded Councillor Dorahy that the meeting time be extended to 11.00 pm.

## ITEM 2 - BRIDGE STREET THEATRE SITE - PROPOSED USE OF LOT 40 DP 5330 NO 24 BRIDGE STREET, CONISTON

**47 COUNCIL'S RESOLUTION** – MOVED by Councillor Brown seconded Councillor Connor that Council -

- 1 Within 60 days, call for proposals from interested parties for the purchase, lease or licence for the continued use of the site, with a requirement for inclusion of a theatre precinct.
- 2 The sale, lease or licence be considered under terms, each of which is for Council to maintain a buy-back option, including, but not limited to -
  - a sale under the same arrangement as occurred with VOX FM;
  - b sale at a nominated value, taking into consideration funds already expended by Phoenix Theatre on building compliance and development of the theatre, or funds allocated by an alternate potential purchaser for outstanding building compliance / maintenance works and development of the theatre;



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- c sale at a nominated value;
  - d sale at a nominated value under a loan agreement with Council;
  - e sale at market value for a theatre site.
- 3 The assessment of the above be based on the following criteria –
- . Artistic and creative merit
  - . Community engagement and participation
  - . Business viability, planning and sustainability
  - . Financial viability
  - . Track record in delivery of community theatre program
  - . Demonstrated links to the delivery of Council’s strategic outcomes
  - . Financial offer [excluding fixtures and fittings]
- 4 Any proposal establish or maintain rights of way over both properties to preserve access to the Coniston Community Centre.
- 5 Any sale, lease or licence of the property be referred to Council for a final decision.
- 6 The lessee or licensee be responsible for all ongoing Capital and Operational costs.

*Variation The variation moved by Councillor Dorahy to add the words ‘within 60 days’, to Part 1, and the addition of Part 6, were accepted by the mover and seconder.*

An AMENDMENT was MOVED by Councillor Blicavs seconded Councillor Dorahy that –

- 1 Council, in the first instance, seek to negotiate or deal with the current licensee, Phoenix Theatre, within 60 days, to enable its continued use of the theatre building by way of direct sale or licence.
- 2 Should negotiations with Phoenix Theatre be unsuccessful, then Council proceed to call for proposals from interested parties for the purchase, lease or licence for the continued use of the site, with a requirement for inclusion of a theatre precinct.
- 2 The sale, lease or licence be considered under terms, each of which is for Council to maintain a buy-back option, including, but not limited to -
  - a sale under the same arrangement as occurred with VOX FM;
  - b sale at a nominated value, taking into consideration funds already

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- expended by Phoenix Theatre on building compliance and development of the theatre, or funds allocated by an alternate potential purchaser for outstanding building compliance / maintenance works and development of the theatre;
- c sale at a nominated value;
  - d sale at a nominated value under a loan agreement with Council;
  - e sale at market value for a theatre site.
- 3 The assessment of the above be based on the following criteria –
- . Artistic and creative merit
  - . Community engagement and participation
  - . Business viability, planning and sustainability
  - . Financial viability
  - . Track record in delivery of community theatre program
  - . Demonstrated links to the delivery of Council's strategic outcomes
  - . Financial offer [excluding fixtures and fittings]
- 4 Any proposal establish or maintain rights of way over both properties to preserve access to the Coniston Community Centre.
- 5 Any sale, lease or licence of the property be referred to Council for a final decision.
- 6 The lessee or licensee be responsible for all ongoing Capital and Operational costs.

*Variation The variation moved by Councillor Dorahy to add the words 'within 60 days', to Part 1, and the addition of Part 6, were accepted by the mover and seconder.*

Councillor Blicavs' AMENDMENT on being PUT to the VOTE was LOST.

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

Councillor Brown's MOTION was then PUT to the VOTE and was CARRIED UNANIMOUSLY.

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## DEPARTURE OF COUNCILLORS

During debate and prior to voting on Item 3, the following Councillors departed and returned to the meeting -

- Councillor Brown from 10.28 pm to 10.30 pm;
- Councillor Merrin from 10.28 pm to 10.32 pm;
- Councillor Blicavs from 10.37 pm to 10.39 pm; and,
- Councillor Curran from 10.38 pm to 10.40 pm;

## ITEM 3 - URBAN COOLING

**48 COUNCIL'S RESOLUTION** RESOLVED UNANIMOUSLY on the motion of Councillor Takacs seconded Councillor Merrin that -

- 1 Council acknowledge the benefits of Urban Cooling.
- 2 Council note that the Draft Annual Plan 2015-16 includes the following projects which address urban cooling:
  - a Development of an Urban Greening Strategy;
  - b Development of a Sustainability Chapter of the Wollongong Development Control Plan.
- 3 Other actions to address urban cooling be considered as part of future annual planning processes.

## DEPARTURE OF COUNCILLOR

Due to a prior disclosure of interest, Councillor Takacs was not present during the debate and voting on Item 4.

## ITEM 4 - DRAFT PLANNING PROPOSAL: INNOVATION CAMPUS - BOUNDARY ADJUSTMENT

**49 COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Blicavs seconded Councillor Brown that the Planning Proposal for the Innovation Campus, Fairy Meadow / North Wollongong to amend the location of the SP1 Special Purpose / RE1 Public Recreation zone boundary on the western side of the Innovation Campus near Cabbage Tree Creek, with a corresponding amendment to the Height of Buildings map, be finalised under delegation issued by the NSW Department of Planning and Environment.

## **ITEM 5 - PROPOSED ACQUISITION AND DEDICATION OF PORTION OF LOT 1163 DP 1111446 NO 40 GAYANTAY WAY, WOONONA AS PUBLIC ROAD**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 43).

### **COUNCIL'S RESOLUTION**

- 1 Council authorise the acquisition of the portion of Lot 1163 DP 1111446 No 40 Gayantay Way, Woonona, for \$1.00 (GST exc) as shown on the attachment to the report.
- 2 Upon the acquisition being finalised, the subject land 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 6 - PROPOSED GRANT OF EASEMENT FOR PADMOUNT SUBSTATION AND RESTRICTION AS TO USER OVER LOT 1164 DP 200706 WINNIMA WAY, BERKELEY**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 43).

### **COUNCIL'S RESOLUTION**

- 1 Council authorise the grant of an Easement for Padmount Substation 2.75m wide and Restriction as to User 12.75m wide over Lot 1164 DP 200706 Winnima Way, Berkeley, as shown on the attachment to the report.
- 2 Council be responsible for all costs in the creation of the Easement and Restriction as to User.
- 3 Authority be granted for the Common Seal of Council to be affixed to the Transfer Granting Easement documents and any other documents required to give effect to this resolution.

## **ITEM 7 - PROPOSED GRANT OF EASEMENT FOR UNDERGROUND ELECTRICITY CABLE OVER COUNCIL LAND IN PUCKEY AVENUE, NORTH WOLLONGONG**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 43).

### **COUNCIL'S RESOLUTION -**

- 1 Council authorise the grant of an Easement for Underground Electricity Cable 1.5m wide in favour of Endeavour Energy over proposed Lot 2, as shown shaded dark grey on the plan attached to the report.
- 2 Council accept payment of the amount of \$500.00 (GST exc) in compensation from the University of Wollongong for the grant of the Easement for Underground Electricity Cable over proposed Lot 2.
- 3 Authority be granted to affix the Common Seal of Council to the easement creation documents and any other documents required to give effect to this resolution.

## **ITEM 8 - TENDER T15/01 - REFURBISHMENT OF BERKELEY COMMUNITY CENTRE, BERKELEY**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 43).

### **COUNCIL'S RESOLUTION -**

- 1 In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (a), Council accept the tender of Project Coordination (Australia) Pty Ltd for the Berkeley Community Centre Refurbishment, in the sum of \$2,189,660.00 excluding GST.
- 2 Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required to give effect to this resolution.
- 4 Council submit a development application for the demolition of the Berkeley Neighbourhood Centre. Subject to obtaining development consent, Council proceed with the demolition following the completion and commissioning of the refurbished Berkeley Community Centre.

Minute No.

**ITEM 9 - TENDER T15/04 - PORT KEMBLA POOL - EXTENSION OF NORTHERN INTAKE PIPE**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 43).

**COUNCIL'S RESOLUTION**

- 1 In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (a), Council accept the tender of GC Civil Pty Ltd for the extension of the northern intake pipe at Port Kembla Pool, Port Kembla, in the sum of \$298,204.00, excluding GST.
- 2 Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required to give effect to this resolution.

**ITEM 10 - TENDER T14/26 - CONSTRUCTION OF A REGIONAL PLAYGROUND AT STUART PARK, WOLLONGONG**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 43).

**COUNCIL'S RESOLUTION -**

- 1 In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (a), Council accept the tender of Precinct Street and Park Pty Ltd for the construction and landscaping of a regional playground at Stuart Park, Wollongong, in the sum of \$362,841.00, excluding GST.
- 2 Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required to give effect to this resolution.

## **ITEM 11 - SHARED PATHWAY EXTENSION - SPRINGHILL ROAD, WOLLONGONG - APPOINTMENT OF CONTRACTOR**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 43).

### **COUNCIL'S RESOLUTION -**

- 1 Council resolve, in accordance with section 55(3)(i) of the Local Government Act 1993, that because of the extenuating circumstances brought about by the availability of funding and the requirement to complete expenditure within the current financial year as set out in this report, tenders not be invited for the works required to complete the project.
- 2 Authority be granted to the General Manager to negotiate and finalise the terms of a contract with a suitably experienced and competent contractor to complete the works.
- 3 Council notes that the process for selecting and contracting with such a contractor will have regard to the criteria and processes applicable for Council's normal tendering policy and procedures.

## **ITEM 12 - MARCH 2015 FINANCIALS**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 43).

### **COUNCIL'S RESOLUTION -**

- 1 The report be received and noted.
- 2 Proposed changes in the Capital Works Program be approved.

## **ITEM 13 - STATEMENT OF INVESTMENTS - MARCH 2015**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 43).

**COUNCIL'S RESOLUTION -** Council receive the Statement of Investments fo March 2015.

Minute No.

A PROCEDURAL MOTION was MOVED by Councillor Connor seconded Councillor Blicavs that Standing Orders be resumed.

### **EXTENSION OF MEETING TIME**

A PROCEDURAL MOTION was MOVED by Councillor Brown seconded Councillor Colacino that the meeting time be extended to 11.30 pm.

### **DEPARTURE OF COUNCILLORS**

During debate and prior to voting on Item D, the following Councillors departed and returned to the meeting –

- Councillor Colacino from 10.53 pm to 10.55 pm;
- Councillor Crasnich from 11.04 pm to 11.05 pm; and,
- Councillor Dorahy from 11.07 pm to 11.09 pm.

A PROCEDURAL MOTION was MOVED by Councillor Brown seconded Councillor Colacino that the meeting time be extended to 11.30 pm.

### **ITEM D - LORD MAYORAL MINUTE - PERFORMANCE REVIEW COMMITTEE**

**50 COUNCIL'S RESOLUTION** – MOVED by Councillor Bradbery that –

- 1 A Councillor be elected to the Performance Review Committee for the period 28 April 2015 until the next annual election of Councillors to various committees and external organisations, which will take place in September 2015.
- 2 The election be conducted by open means on a show of hands.
- 3 a A review of the Performance Review Committee Charter be undertaken to ensure consistency with the 'Guidelines for the Appointment and Oversight of General Managers' developed by the Division of Local Government in 2011.  
b The outcome of the review be the subject of a report to the Council meeting on 18 May 2015.

A PROCEDURAL MOTION was MOVED by Councillor Curran seconded Councillor Petty that an extension of time be granted to Councillor Merrin to address the meeting. The PROCEDURAL MOTION was LOST.



Minute No.

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

- 1 Two Councillors be elected to the Performance Review Committee for the period 28 April 2015 until the next annual election of Councillors to various committees and external organisations, which will take place in September 2015.
- 2 The election be conducted by open means on a show of hands.
- 3
  - a A review of the Performance Review Committee Charter be undertaken to ensure consistency with the ‘Guidelines for the Appointment and Oversight of General Managers’ developed by the Division of Local Government in 2011.
  - b The outcome of the review be the subject of a report to the Council meeting on 18 May 2015.
- 4 The Performance Review Committee:
  - Be made up of the Lord Mayor, the Deputy Lord Mayor, a Councillor elected by Council, a Councillor nominated by the General Manager, and an independent observer.
  - Members receive training performance management of general managers.
  - Notify all Councillors of relevant dates in the performance review cycle and be kept advised of the committee’s findings and recommendations.
  - Conduct yearly reviews of the General Manager’s performance and interim reviews where necessary.
  - Review the performance agreement and vary by agreement.
  - Ask for feedback from all Councillors prior to each review session.
  - Report back to a closed meeting of Council.

*Variation The variation moved by Councillor Curran to change the word ‘A Councillor’ to ‘Two Councillors’ in part 1 of the Amendment was accepted by the mover.*

Minute No.

A FORESHADOWED AMENDMENT was MOVED by Councillor Petty seconded Councillor Curran that –

- 1 Three Councillors who have obtained the Graduate status of the Australian Institute of Company Directors be elected to the Performance Review Committee for the period 28 April 2015 until the next annual election of Councillors to various committees and external organisations, which will take place in September 2015.
- 2 The election be conducted by open means on a show of hands.
- 3
  - a A review of the Performance Review Committee Charter be undertaken to ensure consistency with the ‘Guidelines for the Appointment and Oversight of General Managers’ developed by the Division of Local Government in 2011.
  - b The outcome of the review be the subject of a report to the Council meeting on 18 May 2015.
- 4 The Performance Review Committee:
  - Be made up of the Lord Mayor, the Deputy Lord Mayor, a Councillor elected by Council, a Councillor nominated by the General Manager, and an independent observer.
  - Members receive training performance management of general managers.
  - Notify all Councillors of relevant dates in the performance review cycle and be kept advised of the committee’s findings and recommendations.
  - Conduct yearly reviews of the General Manager’s performance and interim reviews where necessary.
  - Review the performance agreement and vary by agreement.
  - Ask for feedback from all Councillors prior to each review session.
  - Report back to a closed meeting of Council.

Councillor Merrin’s AMENDMENT on being PUT to the VOTE was LOST.

In favour Councillors Takacs, Merrin and Curran

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

Councillor Petty’s FORESHADOWED AMENDMENT then BECAME the AMENDMENT. The AMENDMENT on being PUT to the VOTE was LOST.

Minute No.

**In favour** Councillors Dorahy, Curran and Petty

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

Councillor Bradbery's MOTION was then PUT to the VOTE and was CARRIED.

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

**Against** Councillors Curran and Petty

In accordance with Part 1 of Council's resolution, nominations were called for a Councillor to be elected to the Performance Review Committee for the period 28 April 2015 until the next annual election of Councillors to various committees and external organisations, which will take place in September 2015.

Nominations were received for Councillors Blicavs and Takacs and on a show of hands, Councillor Blicavs was elected.

### **EXTENSION OF MEETING TIME**

A PROCEDURAL MOTION was MOVED by Councillor Curran seconded Councillor Connor that the meeting time be extended to 11.50 pm.

### **MATTER OF GREAT URGENCY – GENERAL MANAGER'S PERFORMANCE MANAGEMENT FRAMEWORK**

Councillor Merrin asked that the Lord Mayor consider a matter which she considered to be of great urgency and related to the performance management framework of the General Manager.

The Lord Mayor deemed the matter not to be of great urgency.

Councillor Merrin MOVED a MOTION of DISSENT on the Lord Mayor's ruling. The PROCEDURAL MOTION on being PUT to the VOTE was LOST and the Lord Mayor's ruling was therefore upheld.

Minute No.

## CLOSED COUNCIL

**51 COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Blicavs seconded Councillor Connor Item A of Confidential Council business which deals with the General Manager's Performance Review be considered in Closed Session, for the following reasons –

- a Section 10A 2(a) of the Local Government Act 1993 as the report contains personnel matters concerning particular individuals (other than Councillors).
- b The Division of Local Government Guidelines for the Appointment and Oversight of General Managers which states that the Performance Review Panel report to a Closed Session of Council the findings and recommendations of the General Manager's performance review.
- c On balance, the public interest in preserving the confidentiality of commercial information outweighs the public interest in openness and transparency in Council decision-making by discussing the matter in open meeting.

Prior to moving into Closed Session, the Lord Mayor advised members of the gallery that this item relates to the General Manager's Performance Review and is classified as Confidential for the following reasons –

- a Section 10A 2(a) of the Local Government Act 1993, permits the meeting to be closed to the public, as the report contains personnel matters concerning particular individuals (other than Councillors); and,
- b The Division of Local Government Guidelines for the Appointment and Oversight of General Managers which states that the Performance Review Panel report to a Closed Session of Council, the findings and recommendations of the General Manager's performance review.

In accordance with Section 10A (4) of the Local Government Act, the Lord Mayor invited members of the gallery to make representations to the Council meeting as to whether this part of the meeting should be closed.

No submissions were received from the press or members of the gallery.

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

Minute No.

At this stage, the time being 11.41 pm, members of the press and gallery departed the Council Chambers.

The meeting moved into Closed Session, the time being 11.41 pm.

Council resumed into Open Session at 11.43 pm and members of the gallery were invited back into the Council Chambers.

## RESOLUTION FROM THE CLOSED SESSION OF COUNCIL

### ITEM A – GENERAL MANAGER’S PERFORMANCE REVIEW

- 52** The Lord Mayor advised that whilst in Closed Session, Council received and noted the General Manager’s Performance Reviews for the past three years.

### **THE MEETING CONCLUDED AT 11.44 PM.**

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Confirmed as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Wollongong held on Monday, 18 May 2015.

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Chairperson