



MINUTES

ORDINARY MEETING OF COUNCIL

at 6.00 pm

Tuesday 27 January 2015

Present

Lord Mayor – Councillor Bradbery OAM (in the Chair), Councillors Kershaw, Connor, Brown, Takacs, Merrin, Blicavs, Dorahy (from 6.31 pm to 8.24 pm), 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 – M Hyde, Director Planning and Environment – Future, City and Neighbourhoods – A Carfield, Manager Governance and Information (Acting) – J Reilly, Manager Finance – B Jenkins, Manager Property and Recreation – P Coyte, Manager Environmental Strategy and Planning – R Campbell, Manager Community Cultural and Economic Development – T Buchanan and Manager Infrastructure Strategy and Planning – M Dowd

Apologies

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- 1 COUNCIL'S RESOLUTION** - RESOLVED on the motion of Councillor Brown seconded Councillor Connor that the apology tendered on behalf of Councillor Martin be accepted.

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DISCLOSURE OF INTERESTS

Councillor Colacino declared a non-significant, non-pecuniary interest in Item D due to the fact that he and the owner of the property had collaborated on identifying opportunities for cancer care funding. Councillor Colacino advised that he would remove himself from the Chamber during debate and voting on the matter.

CONFIRMATION OF MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON MONDAY, 15 DECEMBER 2014

2 COUNCIL'S RESOLUTION – MOVED by Councillor Brown seconded Councillor Blicavs that the Minutes of the Ordinary Meeting of Council held on Monday, 15 December 2014 (a copy having been circulated to Councillors) be taken as read and confirmed.

An AMENDMENT was MOVED by Councillor Curran seconded Councillor Merrin that the Minutes of the Ordinary Meeting of Council held on Monday, 15 December 2014 (a copy having been circulated to Councillors) be taken as read and confirmed subject to the following amendment –

Matter of Great Urgency - Enforcement of Council's Dogs on Beaches and Parks Policy "... Councillor Curran moved a motion of dissent on the Lord Mayor's ruling. Councillor Curran was not given the opportunity to speak to the motion of dissent before the motion was put. On a show of hands, the Lord Mayor's ruling was upheld".

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

In favour Councillors Takacs, Merrin, Curran and Petty
Against Councillors Kershaw, Connor, Brown, Blicavs, Crasnich, Bradbery.
Councillor Colacino abstained.

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

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

PUBLIC ACCESS FORUM – OTFORD STANWELL PARK TUNNEL RAIL TRAIL INC

On behalf of the Otford Stanwell Park Tunnel Rail Trail Inc, Mr W Steyer felt that the conversion of the disused and derelict Otford Stanwell Park Railway Tunnel into a rail trail would provide a safe and interesting link between Otford and Stanwell Park for the community. It would also attract a large number of tourists to the area, generating employment and income for the local community. In addition to walkers and cyclists using the tunnel as part of the Grand Pacific Walk, Coastline Cycleway, Royal National Park Coastal Walk and general sightseers, the tunnel would also attract a large number of railway enthusiasts.

Mr Steyer said that the tunnel appeared to be in sound condition and whilst the many years of neglect, vandalism and graffiti were visible, engineering, feasibility and heritage studies needed to be carried out to determine restoration work required to bring it to a condition that would make it suitable as a rail trail. It was used as a walking trail for a few years after being closed as a railway tunnel in 1920. In conclusion, Mr Steyer said that the 1.5 kilometre long tunnel would be the longest rail trail tunnel in NSW, possibly Australia, and would become a world class tourist attraction, in addition to providing a safe alternative to the hazardous road route for walkers and cyclists between Bald Hill and Stanwell Park.

PUBLIC ACCESS FORUM – COUNCIL MEETING STRUCTURE

Mr Riggall spoke in favour of the Notice of Motion. He congratulated Councillor Curran for having the courage to put forward the motion based on her perceptions over the past 4 years, which indicated that Councillor Briefing Sessions have been a defacto, closed and non-recorded decision making forum and do not provide the procedural fairness, transparency, accountability and good governance that we are expected to deliver. He raised concerns at the removal of Council's values of openness and accessibility and noted the ICAC recommendation which resulted in changes to the Code of Conduct for Councillors that now prohibits caucusing.

Mr Riggall mentioned the Klitgaard formula, Monopoly + Discretion – Accountability = Corruption, which reinforces the need to ensure the accountability essential for good governance. He noted that consideration of Standing Committees was referred to in Reports to Council in September 2011 and March 2012, but not pursued since. He also had serious concerns about Capital Works procurement and provided many examples. He indicated a lack of adequate reporting to Council re value for money of tenders, and outcomes subsequent to contracts negotiated under delegated authority.

ATTENDANCE OF COUNCILLOR

During the following Public Access Forum address by Ms McKay, Councillor Dorahy attended the meeting, the time being 6.31 pm.

PUBLIC ACCESS FORUM – COUNCIL MEETING STRUCTURE AND CYCLE

Ms McKay advised of her support for the motion on tonight's agenda for the review of the Council meeting structure and cycle. She said that Chapter 4 of the Local Government Act states that as a general rule, meetings should be open to the public. The Act also set out under what circumstances meetings should be Closed to the public. She could see an analogy between Wollongong and Shellharbour Councils. In the case of Shellharbour, Council meetings were being closed just for the purpose of frank and open discussion and not being closed due to the fact that there were confidential issues to be considered.

Ms McKay felt that when Council considers major, significant or controversial issues, then the community had the right under section 8 of the Local Government Act to have input. In conclusion Ms McKay said that there are developments which impact on people and such development should come before Council for determination.

DEPARTURE OF COUNCILLORS

During the following Public Access Forum address by Ms McKay the following Councillors departed and returned to the meeting –

- Councillor Colacino from 6.34 to 6.35 pm.
- Councillor Crasnich from 6.37 pm to 6.39 pm.
- Councillor Kershaw from 6.37 pm to 6.43 pm.

PUBLIC ACCESS FORUM – DELEGATION OF COUNCIL FUNCTIONS

In terms of delegations, Ms McKay stressed the importance of checks and balances. She gave examples of issues which had occurred at Shellharbour City Council in the past. She also felt that development applications should come to Council.

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

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CALL OF THE AGENDA

- 4 COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Crasnich that the staff recommendations for Items 2, 4 to 6, 9, 10 and 12 inclusive, be adopted as a block.

DEPARTURE OF COUNCILLOR

During debate and prior to voting on Item A, Councillor Takacs departed and returned to the meeting, the time being from 6.46 pm to 6.47 pm.

ITEM A – NOTICE OF MOTION - COUNCILLOR PETTY - OTFORD STANWELL PARK TUNNEL RAIL TRAIL

A PROCEDURAL MOTION was moved by Councillor Crasnich seconded by Councillor Blicavs that Councillor Colacino be granted a 5 minute extension to address the meeting in relation to Item A.

- 5 COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Petty seconded Councillor Kershaw that –

1 Council write to:

- The Minister for Small Business and Minister for Regional Tourism, The Hon John Barilaro MP;
- The Minister for the Illawarra, The Hon John Ajaka MLC;
- The Member for Cunningham, The Hon Sharon Bird MP;
- The Member for Heathcote, Mr Lee Evans MP;
- Mr Chris Hanger, Director, Office of Regional Development, NSW Trade and Investment; and
- Mr John Moore, Rail Trails for NSW,

in support of the community initiative to establish an Otford Stanwell Park Tunnel Rail Trail.

- 2 Council write to the Minister for Transport and Minister for the Hunter The Hon Gladys Berijiklian MP, seeking support from her office to further investigate the prospect of having the Otford Rail Tunnel become part of the Grand Pacific Walk's footprint.
- 3 Council write to the Deputy Premier, Minister for Trade and Investment, Minister for Regional Infrastructure and Services, Minister for Tourism and Major Events, Minister for Gaming and Racing and the Minister for the Arts, the Hon Troy Grant MP, explaining the intent and seeking his support for this great initiative.

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- 4 The letters to Ministers Berijikian and Grant advise that this is only a scoping study at present. The intent is to establish whether it would be feasible to put in place a pedestrian easement or lease agreement so that this project can offer an undeniable addition to the shared pathway experiences NSW has to offer.

Variation *The variation moved by Councillor Colacino (the addition of Parts 2, 3 and 4) was accepted by the mover and seconder.*

DEPARTURE OF COUNCILLORS

During debate and prior to voting on Councillor Takacs' Foreshadowed Motion for Item B, Councillor Blicavs departed and returned to the meeting, the time being from 8.20 pm to 8.21 pm.

During debate and prior to voting on Councillor Takacs' Foreshadowed Motion for Item B, Councillor Dorahy departed the meeting, the time being from 8.24 pm.

ITEM B – NOTICE OF MOTION – COUNCILLOR CURRAN – COUNCIL MEETING STRUCTURE AND CYCLE

A PROCEDURAL MOTION was moved to allow Councillors additional time to address the meeting in relation to Item B –

- Moved Councillor Colacino seconded Councillor Dorahy – an additional 5 minutes for Councillor Curran.
- Moved Councillor Blicavs seconded Councillor Dorahy – an additional 1 minute for Councillor Brown.
- Moved Councillor Merrin seconded Councillor Dorahy – an additional 5 minutes for Councillor Petty.
- Moved Councillor Crasnich seconded Councillor Colacino – an additional 5 minutes for Councillor Blicavs .
- Moved Councillor Crasnich seconded Councillor Merrin – an additional 5 minutes for Councillor Connor.
- Moved Councillor Merrin seconded Councillor Petty - an additional 3 minutes for Councillor Curran.

MOVED by Councillor Curran seconded Councillor Petty that –

- 1 Wollongong City Council Councillor Briefing Sessions to be held on the second and third Monday of the Council meeting cycle in 2015 be renamed Committee of Council Meetings and the relevant meeting provisions of the Local Government Act, the Regulation and

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Wollongong City Council's Code of Meeting Practice govern its procedure.

- 2 Wollongong City Council Councillor Briefing Sessions be scheduled for Thursdays when need arises for Council to workshop certain complex matters.

At this point, Councillor Takacs' FORESHADOWED a MOTION should Councillor Curran's Motion be defeated.

In favour
Against

Councillors Curran and Petty

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

Following the defeat of Councillor Curran's MOTION, Councillor Takacs' FORESHADOWED MOTION then became the MOTION.

MOVED by Councillor Takacs seconded Councillor Merrin that -

- 1 Agendas for Briefing Sessions be made publicly available via the website subsequent to the holding of Briefing Sessions.
- 2 A report come to Council outlining options for improving procedural fairness for Briefing Sessions.
- 3 Council commission the services of an independent external consultant on probity and compliance to assess the conduct of Councillor Briefing Sessions to ensure they comply with the Local Government Act.

Variation

The variation moved by Councillor Bradbery (the addition of Part 3) was accepted by the mover and seconder of both the motion and the amendment.

6 COUNCIL'S RESOLUTION – An AMENDMENT was MOVED by Councillor Kershaw seconded Councillor Brown that -

- 1 Agendas for Briefing Sessions be made publicly available via the website subsequent to the holding of Briefing Sessions.
- 2 The options for improving Briefing Sessions be an item for a future briefing session.
- 3 Council commission the services of an independent external consultant on probity and compliance to assess the conduct of Councillor Briefing Sessions to ensure they comply with the Local Government Act.

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A PROCEDURAL MOTION was moved by Councillor Blicavs seconded by Councillor Colacino that the motion be put.

The PROCEDURAL MOTION on being put the vote was CARRIED.

Councillor Kershaw's AMENDMENT was then put to the vote and was CARRIED.

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

Against Councillors Takacs, Merrin, Curran and Petty

Councillor Kershaw's AMENDMENT then became the MOTION.

The MOTION on being put to the vote was CARRIED UNANIMOUSLY.

DEPARTURE OF COUNCILLORS

During debate on Item C, Councillors Merrin and Crasnich departed the meeting, the times being 8.32 pm and 8.33 pm respectively. Councillors Merrin and Crasnich were not present during the calling of a seconder for Item C.

ITEM C – NOTICE OF MOTION - COUNCILLOR CURRAN - DELEGATION OF COUNCIL FUNCTIONS

MOVED by Councillor Curran that –

- 1 A report be submitted to Council:
 - a outlining and describing the functions delegated to the General Manager as well as any sub-delegations and mechanisms for recording and reporting to Council currently in place; and
 - b which lists policies, protocols and/or procedures that guide the delegated decision-making process and method and date for their review.
- 2 The General Manager provide Councillors with a weekly newsletter that provides information about decisions made under delegation and sub-delegation and other matters that would be of interest to Council or in Council's responsibility to oversee.

There was no seconder for Item C and therefore Councillor Curran's motion lapsed.

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DEPARTURE AND ATTENDANCE OF COUNCILLORS

Due to a prior disclosure of interest, Councillor Colacino departed the Chamber and was not present during any debate or voting on Item D.

During debate and prior to voting on Item D –

- Councillor Curran departed and returned to the meeting, the time being from 8.34 pm to 8.38 pm.
- Councillors Crasnich and Merrin returned to the meeting, the times being 8.35 pm and 8.38 pm respectively.

ITEM D – NOTICE OF RESCISSION – COUNCILLORS PETTY, CURRAN AND MERRIN – DRAFT PLANNING PROPOSAL – FUNCTION CENTRE, LOT 1 LADY WAKEHURST DRIVE, LILYVALE

MOVED by Councillor Petty seconded Councillor Takacs that Council rescind its resolution of 24 November 2014 (Minute No 215) relating to Item 4 of Council General Business – Draft Planning Proposal – Function Centre, Lot 1 Lady Wakehurst Drive, Lilyvale.

The NOTICE OF RESCISSION on being PUT to the VOTE was LOST.

In favour
Against

Councillors Connor, Takacs, Merrin, Curran and Petty

Councillors Kershaw, Brown, Blicavs, Crasnich and Bradbery

Due to votes being tied, the Lord Mayor used his Casting Vote to vote against Councillor Petty's Notice of Rescission.

ITEM 1 – AUDIT COMMITTEE INDEPENDENT MEMBERSHIP AND APPOINTMENT OF CHAIRPERSON

7 **COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Petty seconded Councillor Blicavs that –

- 1 Council appoint Dr Philip Ross and Ms Kylie McRae to the Audit Committee for a three year period.
- 2 Council formally acknowledge the contribution and commitment of outgoing members to the Audit Committee.
- 3 Mr Jim Mitchell be appointed Chairperson of the Audit Committee.

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ITEM 2 – REVISED INTERNAL AUDIT CHARTER

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 4).

COUNCIL'S RESOLUTION – The revised Internal Audit Charter be adopted.

ITEM 3 – QUARTERLY REPORT ON DEVELOPMENT APPLICATIONS INVOLVING VARIATIONS TO DEVELOPMENT STANDARDS

8 **COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Takacs seconded Councillor Brown that Council note the report.

ITEM 4 – PROPOSED ACQUISITION OF PORTION OF LOT 29 DP 8450 NO 229 LAWRENCE HARGRAVE DRIVE, COALCLIFF FOR ROAD WIDENING PURPOSES

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 4).

COUNCIL'S RESOLUTION –

- 1 Council authorise the acquisition of the portion of Lot 29 DP 8450 No 229 Lawrence Hargrave Drive, Coalcliff, shown shaded dark grey on the attachment to the report, subject to the following conditions:
 - a Purchase price of \$22,000 (GST exc).
 - b Council be responsible for all costs including valuation, survey, plan lodgement, transfer and legal costs.
- 2 Upon completion of the acquisition, the land be dedicated as public road in accordance with Section 10 of the Roads Act 1993.
- 3 Authority be granted to affix the Common Seal of Council to the transfer documents and any other documentation required to give effect to this resolution.

ITEM 5 – PROPOSED NAMING OF LANE 62 OFF HOPETOUN STREET, WOONONA

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 4).

COUNCIL'S RESOLUTION – Action be taken under Section 162 of the Roads Act 1993 to give formal notice of the proposal to name the lane known as Lane 62 off Hopetoun Street, as shown shaded dark grey on the attachment to the report, as “Pitman Lane”.

ITEM 6 – FUNDING AGREEMENT FOR THE ROUND 3 LOCAL INFRASTRUCTURE RENEWAL SCHEME – WEST DAPTO ACCESS

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 4).

COUNCIL'S RESOLUTION –

- 1 The information contained in the report relating to the LIRS borrowing program be received.
- 2 Council borrow an amount of \$15M at a fixed rate over a 9.5 year term with a quarterly repayment schedule.
- 3 Council's General Manager be delegated authority to negotiate appropriate loan terms in accordance with this report and resolution.
- 4 Authority be granted to affix the Common Seal of Council to the loan documents and any other documents required to give effect to the loan agreement.
- 5 The General Manager be delegated the authority to finalise the terms of the Funding Agreement with the NSW Premier and Cabinet – Office of Local Government.
- 6 Authority be granted to affix the Common Seal of Council to the Local Infrastructure Renewal Scheme documents and any other documents required to give effect to this agreement.

ITEM 7 – ALLANS CREEK FLOODPLAIN RISK MANAGEMENT COMMITTEE CHARTER FOR FLOODPLAIN RISK MANAGEMENT COMMITTEES

9 COUNCIL'S RESOLUTION – RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Crasnich that –

- 1 Two (2) Councillors and a Chairperson be elected to the re-formed Allans Creek Floodplain Risk Management Committee.
- 2 The Charter – Floodplain Risk Management Committee be adopted for all Floodplain Risk Management Committees.

Nominations were received for Councillors Dorahy and Martin to be elected as members of the Allans Creek Floodplain Risk Management Committee and there being no further nominations, Councillors Dorahy and Martin were elected.

A nomination was received for Councillor Dorahy to be elected as Chairperson of the Allans Creek Floodplain Risk Management Committee. Councillor Dorahy was subsequently elected.

ITEM 8 – LAKE ILLAWARRA ESTUARY MANAGEMENT COMMITTEE UPDATE

A PROCEDURAL MOTION was MOVED by Councillor Kershaw seconded Councillor Merrin that this matter lay on the table.

Note: The mover of the motion asked that prior to the matter being reconsidered by Council, the Lord Mayor and Deputy Lord Mayor hold discussions with their counterparts at Shellharbour City Council.

ITEM 9 – DECEMBER 2014 FINANCIALS

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 4).

COUNCIL'S RESOLUTION –

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

ITEM 10 – STATEMENTS OF INVESTMENTS – NOVEMBER AND DECEMBER 2014

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 4).

COUNCIL'S RESOLUTION – Council receive the Statements of Investments for November and December 2014.

ITEM 11 – ADMINISTRATION OF 2016 ELECTIONS OF LORD MAYOR AND COUNCILLORS

10 COUNCIL'S RESOLUTION – RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Blicavs that –

- 1 The New South Wales Electoral Commissioner be engaged to administer Council's next scheduled Election of Lord Mayor and Councillors.
- 2 Pursuant to section 296(2) and (3) of the Local Government Act 1993 ("the Act") an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
- 3 Pursuant to section 296(2) and (3) of the Act, as applied and modified by section 18, a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all Council polls of the Council.
- 4 Pursuant to section 296(2) and (3) of the Act, as applied and modified by section 18, a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.
- 5 Authority be granted to the General Manager to conduct negotiations with the Electoral Commissioner as to the terms of the engagement and to enter into a contract with the Commissioner on behalf of Council to a maximum of \$885,000 (excluding GST).
- 6 Authority be granted to affix the Common Seal of Council to the contract document and any other documentation, should it be required to give effect to this resolution.

Variation The variation moved by Councillor Petty (the addition of the words "... to a maximum of \$885,000 (excluding GST) to Item 5)" was accepted by the mover and seconder.

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ITEM 12 – BI MONTHLY TABLING OF RETURNS OF DISCLOSURES OF INTEREST AND OTHER MATTERS

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 4).

COUNCIL'S RESOLUTION – Council note the tabling of the Returns of Disclosures of Interest as required by Section 450A of the Local Government Act 1993.

ITEM 13 – FINANCIAL ASSISTANCE POLICY MINOR UPDATE

11 COUNCIL'S RESOLUTION – RESOLVED on the motion of Councillor Curran seconded Councillor Merrin that this policy be the subject of a Briefing Session Workshop.

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

THE MEETING CONCLUDED AT 9:23 PM

Confirmed as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Wollongong held on 23 February 2015.

Chairperson