



MINUTES OF THE ORDINARY MEETING OF COUNCIL

commencing at 5pm on

TUESDAY 16 AUGUST 2016

Council Chambers
11 Manning Street, KIAMA NSW 2533

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE
MUNICIPALITY OF KIAMA HELD IN THE COUNCIL CHAMBERS,
KIAMA, ON TUESDAY 16 AUGUST 2016 AT 5PM**

PRESENT: Mayor – Councillor B Petschler,
Deputy Mayor – Councillor W Steel,
Councillors M Honey, G McClure, N Reilly, K Rice, D Seage, A
Sloan and M Way

IN ATTENDANCE: General Manager, Director Environmental Services, Director
Finance, Corporate and Commercial Services, Director
Engineering and Works and Acting Director Community
Services

1 APOLOGIES

Nil

2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

The Mayor declared the meeting open and acknowledged the traditional owners:

“On behalf of those present, I would like to show my respect and acknowledge the traditional owners of the Land, of Elders past and present, on which this meeting takes place, and extend that respect to other Aboriginal and Torres Strait Islander people present.”

3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

3.1 Ordinary Council Meeting held on 19 July 2016

16/270

Resolved that the Minutes of the Ordinary Council Meeting held on 19 July 2016 be received and accepted.

(Councillors Way and Sloan)

15.3 Extraordinary meeting of Council on 9 August 2016

16/271

Resolved that the Minutes of the Extraordinary Meeting held on 9 August 2016 be received and accepted.

(Councillors Reilly and Way)

15.4 Youth Engagement meeting held on 3 August 2016**16/272**

Resolved that the Minutes of the Youth Engagement Meeting held on 3 August 2016 be received and accepted.

(Councillors Steel and Rice)

4 BUSINESS ARISING FROM THE MINUTES

Nil

5 PUBLIC ACCESS

Ms Penny Morris – Item 9.4 - Lot 9 DP 285560 47 Byrnes Run Curramore – shed, pool, cabana and driveway extension (10.2016.81.1)

Mr Brett Fletcher – Item 9.4 - Lot 9 DP 285560 47 Byrnes Run Curramore – shed, pool, cabana and driveway extension (10.2016.81.1)

Mr Alan Round – Item 9.5 - Lot 12 DP 664055 and Lot 1 DP 25919 22 Stafford Street Gerroa – general store and dwelling alterations and additions (10.2015.169.1)

Mr Colin Packham – Item 9.5 - Lot 12 DP 664055 and Lot 1 DP 25919 22 Stafford Street Gerroa – general store and dwelling alterations and additions (10.2015.169.1)

Mr Albert Wun-Hym – Item 9.6 - Lot 1 DP 1115030, Lot 1 DP 200068, Lot A DP 161881, Lot 7016 DP 1074643, Lot 1 DP 615423, 10 Bong Bong Street Kiama – demolition of existing building and construction of mixed used development consisting of 9 serviced apartments and 14 shop top housing units (10.2015.307)

Mr Jonathan Britten – Item 9.7 - Review of determination – Lot 5204 DP 1210287, 3 Bourrool Street Kiama – proposed attached dual occupancy and strata subdivision (10.2016.41.1)

6 MAYORAL MINUTE**6.1 2016 Local Government Regional NAIDOC Awards****16/273**

Resolved that Council note the success of this year's Awards and congratulate the organising committee on another successful event showcasing the important contributions Aboriginal and Torres Strait Islander people and their organisations make to the Illawarra Community.

(Councillors Petschler and Rice)

6.2 2016 NSW Local Government Week Awards

Brodie Brady and Regan Figg were formally presented with the Heart Foundation award.

16/274

Resolved that Council extend its congratulations to Regan Figg and Brodie Brady for their work on the Garden to Table Program which was awarded the Heart Foundation 2016 Local Government Week Award for populations 5000-25,000 category.

(Councillors Petschler and Steel)

6.3 Arthur Campbell Reserve Dedication - 5 August 2016

16/275

Resolved that Council record its appreciation for the service of Emeritus Mayor, the late Arthur Campbell, to this municipality and note the formal dedication of the Arthur Campbell Reserve in Gerringong.

(Councillors Petschler and Honey)

6.4 2012/2016 Council Term Ends

16/276

Resolved that the Mayor extends:

1. Best wishes to all Councillors standing for re-election and appreciation for the results achieved in the past four years;
2. Appreciation to Councillor Dennis Seage for his contribution;
3. Thanks to the General Manager, his senior officers and the staff of Council for their support over the last four years; and
4. Appreciation to the municipal community for its support of this Council.

(Councillors Petschler and Way)

7 MINUTES OF COMMITTEES

Disclosure of interest – Councillor Sloan

Councillor Sloan declared a potential financial pecuniary interest in this matter as his wife is a partner in a business that occupies an adjacent building and the parking for the business will be affected by one of the matters in the report. Councillor Sloan left the Chambers and took no part in discussion or voting on this matter.

Councillor Sloan left the meeting at 5.14pm.

7.1 Kiama Local Traffic Committee - meeting held on 2 August 2016

16/277

Resolved that the minutes of the Kiama Local Traffic Committee meeting held on

2 August 2016 be received and accepted.

(Councillors McClure and Way)

Councillor Sloan returned to the meeting at 5.15pm

COMMITTEE OF THE WHOLE

16/278

Resolved that at this time, 5.15pm, Council form itself into a Committee of the Whole to deal with matters listed in the reports as set out below:

- Report of the Director Environmental Services
- Report of the General Manager
- Report of the Director Finance, Corporate and Commercial Services
- Report of the Director Engineering and Works
- Report of the Acting Director Community Services
- Addendum to Reports

(Councillors Steel and Reilly)

8 PUBLIC ACCESS REPORTS

16/279

Committee recommendation that at this time, 5.15pm, Council bring forward and deal with the matters pertaining to the Public Access Meeting.

(Councillors Steel and Reilly)

9.4 Lot 9 DP 285560, 47 Byrnes Run Curramore - shed, pool, cabana and driveway extension (10.2016.81.1)

16/280

Committee recommendation that Council approve development application 10.2016.81 pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report with the exception and exclusion of the shed and its location.

(Councillors Reilly and Seage)

For: Councillors McClure, Petschler, Reilly, Rice, Seage and Sloan

Against: Councillors Honey, Steel and Way

9.5 Lot 12 DP 664055 & Lot 1 DP 25919, 22 Stafford Street Gerroa - General store & dwelling alterations & additions (10.2015.169.1)**Disclosure of interest – Councillor Steel and Councillor McClure**

Councillor Steel and Councillor McClure declared a non-pecuniary interest in this matter as a member of their team for Council elections has forwarded a submission relating to this matter. Councillor Steel and Councillor McClure left the Chambers and took no part in discussion or voting on this matter.

Councillor Steel and Councillor McClure left the meeting at 5.45pm.

16/281

Committee recommendation that Council approve Development Application 10.2015.169.1, pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, subject to the conditions contained within this report.

(Councillors Seage and Way)

An **amendment** was moved by Councillor Sloan and seconded by Councillor Rice that Council defer consideration of Development Application 10.2015.169.1 pending further discussions with the neighbours and the proponent.

The amendment was **Put** and **Lost**.

The original Motion was **Put** and **Carried**.

For: Councillors Honey, Petschler, Reilly, Rice, Seage, and Way

Against: Councillor Sloan

Councillor Steel and Councillor McClure returned to the meeting at 5.55pm.

9.6 Lot 1 DP 1115030, Lot 1 DP 200068, Lot A DP 161881, Lot 7016 DP 1074643, Lot 1 DP: 615423, 10 Bong Bong Street, Kiama - Demolition of Existing Building and Construction of Mixed Used Development Consisting of 9 Serviced Apartments & 14 Shop Top Housing Units (10.2015.307.1)**16/282**

Committee recommendation that Council refuse development application 10.2015.307.1 pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, for the following reasons:

1. It is considered that the proposed residential accommodation does not qualify as shop top housing as it is not located above a ground floor retail premises or business premises. The residential accommodation proposed is thereby prohibited under the terms of Kiama LEP 2011.
2. It is considered that the proposed building height breach (Kiama LEP 2011

Clause 4.3) is unacceptable and the Clause 4.6 exception request does not adequately justify why the development standard should be varied.

3. It is considered that the proposed development does not satisfy LEP 2011 Clause 6.8, which requires the development to have an active street frontage.
4. It is considered that the proposed development is incompatible with the existing streetscape, predominantly on account of the excessive building height.
5. It is considered that the proposed development is inconsistent with the provisions of Kiama DCP 2012 Chapter 5 – Medium Density Development, in particular in relation to control C4 adaptable dwellings, Section 13 drying areas and the three (3) storey height limit under Chapter 26.
6. Submissions have been received making valid objections to the development on the grounds of excessive building height and view loss.
7. It is considered that in the circumstances of the case, approval of the development would not be in the public interest.

(Councillors Way and Sloan)

For: Councillors Honey, McClure, Petschler, Reilly, Rice, Seage, Sloan, Steel and Way

Against: Nil

9.7 Review of Determination - Lot 5204 DP 1210287 3 Bourrool Street, Kiama - Proposed attached dual occupancy and strata subdivision (10.2016.41.1)

Councillor Seage left the Chambers and took no part in discussion or voting on this matter.

Councillor Seage left the meeting at 6.11pm.

16/283

Committee recommendation that Council confirm the previous determination and refuse development application 10.2016.41.1 for the reasons set out in the original refusal and for the following additional reasons:

1. it does not contribute to achieving the objectives of the R3 Zone.
2. the development does not meet C16 and C17 of Chapter 4 of the Kiama Development Control Plan 2012.

(Councillors Steel and Way)

For: Councillors Honey, McClure, Petschler, Reilly, Rice, Sloan, Steel and Way

Against: Nil

Councillor Seage returned to the meeting at 6.16pm

9 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

9.1 Developer Contributions Review - Stage 1

16/284

Committee recommendation that Council resolve to prepare a new Section 94A Contributions Plan to cover the entire Municipality and develop a new works schedule for the redistribution of the unallocated funds already collected. These documents are to be endorsed by Council prior to any formal public exhibition.

(Councillors Way and Rice)

For: Councillors Honey, McClure, Petschler, Reilly, Rice, Seage, Sloan, Steel and Way

Against: Nil

9.2 Planning Proposal for Part of Lot 73 DP 1153471, 35 Bland Street, Kiama

16/285

Committee recommendation that Council exercise its delegation in relation to the preparation of the amendment to the Kiama Local Environmental Plan 2011 to rezone part of Lot 73 DP 1153471, 35 Bland Street Kiama from SP2 Infrastructure to R2 Low Density Residential, introduce a minimum lot size of 450m², and apply a maximum building height of 8.5m.

(Councillors Sloan and Way)

For: Councillors Honey, McClure, Petschler, Reilly, Rice, Seage, Sloan, Steel and Way

Against: Nil

9.3 Sunset Clause in Kiama Local Environmental Plan 2011

16/286

Committee recommendation that Council

1. prepare a media release for distribution in September advising the community of the expiration provisions within Clause 4.2A of Kiama Local Environment Plan 2011.
2. Advise all rural ratepayers direct of the expiration of the Sunset Clause.

(Councillors Honey and Way)

For: Councillors Honey, McClure, Petschler, Reilly, Rice, Seage, Sloan, Steel and Way

Against: Nil

10 REPORT OF THE GENERAL MANAGER

10.1 End of Term Report

16/287

Committee recommendation that Council endorse the End of Term Report.

(Councillors Sloan and Seage)

10.2 Local Government NSW Annual Conference 2016

16/288

Committee recommendation that Council endorse the registration of Councillors interested in attending the Local Government NSW Annual Conference.

(Councillors Sloan and Seage)

10.3 Gerringong Surf Music Festival - Proposal for Funding 2017

16/289

Committee recommendation that Council provides support for the Gerringong Surf Music Festival by:

1. providing \$2000 financial assistance;
2. donating the use of Gerringong Town Hall and Old School Park Reserve; and
3. carrying out the waste, recycling and cleaning services.

(Councillors Sloan and Seage)

10.4 Kiama Rugby Sevens

16/290

Committee recommendation that Council provide support for the Kiama Rugby Sevens by:

1. providing \$5,000 financial support
2. donating the use of the Pavilion and grounds; and

3. carrying out the waste, recycling and cleaning services.

(Councillors Sloan and Seage)

10.5 Gerringong Lions Motor Fest / Car Show

16/291

Committee recommendation that Council provide support for the Gerringong Lions Motor Fest / Car Show by:

1. donating the use of the Michael Cronin Oval; and
2. carrying out the waste and recycling services

(Councillors Honey and Way)

11 REPORT OF THE DIRECTOR FINANCE, CORPORATE AND COMMERCIAL SERVICES

11.1 Revotes of Expenditure 2015/16

16/292

Committee recommendation that the expenditure items as listed be revoted to the 2016/2017 budget year.

(Councillors Sloan and Seage)

11.2 Statement of Investments - July 2016

16/293

Committee recommendation that the information relating to the Statement of Investments for July 2016 be received and adopted.

(Councillors Sloan and Seage)

11.3 Investment Policy

16/294

Committee recommendation that the Investment Policy Revised August 2016 be received and adopted.

(Councillors Sloan and Seage)

11.4 NSW Department of Education - Request for Reduction of Pool Entry**16/295**

Committee recommendation that Council approves a reduction in fees for pool entry for students participating in the School Swimming and Water Safety Program from \$3.40 to \$2.00.

(Councillors Sloan and Seage)

12 REPORT OF THE DIRECTOR ENGINEERING AND WORKS**12.1 Assignment of Lease - Seven Mile Beach Kiosk Gerroa****16/296**

Committee recommendation that Council (Reserve Trustee):

1. agree to the assignment of the current lease of the Seven Mile Beach Kiosk located on crown reserve (R83972) from Kylie Pickett and Kevin Chilver to Rick McKenzie subject to the formal approval of Department of Primary Industries (Lands).
2. give delegated authority to the General Manager and Mayor to sign all documentation associated with the lease assignment including the seal of Council.

(Councillors Steel and Reilly)

12.2 Creation of Easement and Compulsory Acquisition**16/297**

Committee recommendation that Council;

1. proceed with compulsory acquisition for an easement over Lot 2 DP1152102 for the purposes of a gas main in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991.
2. determine a compensation amount of \$5000 ex GST as recommended by Council's Valuer under the Land Acquisition (Just Terms Compensation) Act 1991.
3. create an easement for gas main pursuant to section 88B of the Conveyancing Act 1919 over Lot 2 DP1152102.
4. give the Mayor and General Manager delegated authority to the signing of all documents associated with the creation of the easement and compulsory acquisition including the seal of Council.

(Councillors Honey and Way)

13 REPORT OF THE ACTING DIRECTOR COMMUNITY SERVICES**13.1 BISI 2017 - 2020 Cultural Planning****16/298****Committee recommendation** that Council:

1. Accept the BERT 2013-16 review.
2. Approve the BISI 2017-2020 Cultural Planning document.
3. Commend Louise Croker on her work in this area.

(Councillors Reilly and Way)

13.2 Yes Campaign for Marriage Equality**16/299****Committee recommendation** that Council note the report.

(Councillors Seage and McClure)

13.3 Health & Sustainability Advisory Committee - Revised Terms of Reference**16/300****Committee recommendation** that Council:

1. endorse the revised Terms of Reference for the Kiama Health & Sustainability Committee – August 2016 for consideration by the new Council when determining the committees in September 2016.
2. defer the advertising for new committee members under the revised ToR for the new Council to determine committees.

(Councillors Way and Reilly)

13.4 Question for future meeting: Use of Kiama CCTV system to count tourist numbers

It was **moved** by Councillor Rice and seconded by Councillor Sloan that Council review this report to determine if there is a simpler and legal way to assess population numbers using the existing CCTV system and other means, and the cost thereof.

The **Motion** on being put was **Lost**.

16/301

An amendment was moved by Councillor Reilly and seconded by Councillor Seage

that Council review this report to determine if there is a simple and legal way to assess population numbers using existing systems and other means, and the cost thereof.

The **Amendment** was Put and **Carried**.

14 REPORTS FOR INFORMATION

16/302

Resolved that the following Reports for Information listed for the Council's consideration be received and noted

- 14.1 Question for future meeting: Release of confidential reports
- 14.2 Kiama Red Cross - Letter of Appreciation
- 14.3 Letter of Thanks - Gerringong Men's Shed
- 14.4 Question for future meeting: Review of old State and Federal Government roadside signage
- 14.6 Indian Myna Bird Control Program
- 14.7 Reporting on Council's 2013- 2017 Delivery Program (Jan - June 2016)
- 14.8 Parking Statistics - July 2016
- 14.9 The Local Government Amendment (Governance and Planning) Bill 2016
- 14.10 Weave Artist Directory
- 14.11 Dementia Strategy Summit
- 14.12 Question for future meeting: 2011 Urban Strategy - Lots and dwellings released since commencement of Kiama Urban Strategy
- 14.13 Question for future meeting: Hours of operation for garage/newsagency in Manning Street, Kiama
- 14.14 The Pavilion Kiama Open Day
- 14.15 Economic Development Committee Meeting held 5 July 2016 - Minutes
- 14.16 Minnamurra Progress Association - General & Annual General Meeting Minutes - Annual Report 2015/16
- 14.17 Illawarra Pilot Joint Organisation
- 14.18 Letter of Appreciation - ISWNE
- 14.19 Tourism.

(Councillors Sloan and Seage)

14.5 Question for future meeting: Kiama Harbour moorings

16/303

Committee recommendation that Council add a sign to the directional signboard at the Kiama Harbour entrance directing people to "Charter Boats".

(Councillors Reilly and Steel)

15 ADDENDUM TO REPORTS

15.1 Addendum to reports**16/304**

Committee recommendation that at this time, 6.55pm Council bring forward and note the following matters:

15.1 Questions for Future Meetings Register as at 12 August 2016

15.2 Sustainability of Local Government NSW.

(Councillors Way and McClure)

RESUMPTION OF ORDINARY BUSINESS**16/305**

Resolved that at this time, 7.01pm, Council resume the ordinary business of the meeting with all Councillors and Staff present at the adjournment of the meeting being present.

(Councillors Way and Seage)

ADOPTION OF COMMITTEE OF THE WHOLE REPORT**16/306**

Resolved that Council formally confirm, adopt and endorse the Committee recommendations made by Council sitting as a Committee of the Whole as detailed in the Committee recommendations numbered 16/279 to 16/304 above.

(Councillors Sloan and Seage)

16 NOTICE OF MOTION

Nil

17 QUESTIONS FOR FUTURE MEETINGS**17.1 Disability parking sign - Collins Street**

Councillor Reilly requested a review of the placement of the disability parking sign near the bus stop on Collins Street in front of the Masonic Hall.

The Mayor referred this matter to the Director Engineering and Works for investigation and report.

17.2 Questions for Future Meetings register

Councillor Reilly requested the Register of Questions for Future Meetings be archived and a new register started for the new Council.

The Mayor referred this matter to the General Manager for investigation.

17.3 Review of taxi stand at Kiama Bowling Club

Councillor Steel requested that the site of the taxi stand at the Kiama Bowling Club be removed or consideration be given to the taxi stand being moved from the eastern side of the Bowling Club to Shoalhaven Street.

The Mayor referred this matter to the Director Engineering and Works for investigation and report.

18 CONFIDENTIAL SUMMARY

16/307

Resolved that at this time, 7.06pm, Council form itself into a Confidential Committee of the Whole to deal with matters listed in the recommendations as set out below subject to the consideration of any representations relating to such action.

(Councillors Sloan and Way)

Public Representations:

The Mayor called for representations regarding issues which had been proposed to be disclosed in Confidential Committee of the Whole. No such representations were received.

18.1 Exclusion Of Press And Public:

16/308

Resolved that in accordance with Sections 10 and 10A of the Local Government Act, 1993 as amended, Council close the meeting of the Confidential Committee of the Whole to the Press and Public to deal with the following matters on the grounds as detailed below.

19.1 CARRINGTON FALLS BRIDGE REPLACEMENT TENDER EVALUATION

Reason for Confidentiality: This matter deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it as per Section 10A(2)(di) of the Local Government Act. .

19.1 THE FORMER MITRE 10 SITE (LOT 1 DP50193) TERRALONG STREET AND AKUNA STREET, KIAMA

Reason for Confidentiality: This matter deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business as per Section 10A(2)(c) of the Local Government Act.

(Councillors Sloan and Way)

19 CONFIDENTIAL REPORTS**19.1 Carrington Falls Bridge Replacement Tender Evaluation**

16/309

Resolved that Council resolve to accept the tender from Kenpass Pty Ltd for the sum of \$505,900.00 including GST to complete the works.

(Councillors Steel and Way)

19.2 The former Mitre 10 site (Lot 1 DP50193) Terralong Street and Akuna Street, Kiama

16/310

Resolved that Council enters into a short term lease for the ground floor of the Mitre 10 store.

(Councillors Steel and Rice)

Close of Confidential Committee of the Whole:

16/311

Resolved that at this time, 7.13pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors McClure and Rice)

Adoption of Report

The General Manager formally reported the recommendations of the Confidential Committee of the Whole more particularly set out above.

16/312

Resolved that that the Confidential Committee of the Whole recommendations

numbered 16/309 and 16/310 be confirmed and adopted.

(Councillors Honey and Reilly)

20 CLOSURE

There being no further business the meeting closed at 7.13pm

These Minutes were confirmed at the Ordinary Meeting of Council held on
20 September 2016

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Mayor

.....
General Manager