



# **MINUTES OF THE ORDINARY MEETING OF COUNCIL**

**commencing at 5pm on**

**TUESDAY 17 OCTOBER 2017**

Council Chambers  
11 Manning Street, KIAMA NSW 2533

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**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE  
MUNICIPALITY OF KIAMA HELD IN THE COUNCIL CHAMBERS,  
KIAMA, ON TUESDAY 17 OCTOBER 2017 AT 5.03PM**

**PRESENT:** Mayor – Councillor M Honey,  
Councillors M Brown, N Reilly, A Sloan, D Watson, M Way and  
M Westhoff

**IN ATTENDANCE:** General Manager, Acting Director Environmental Services,  
Director Corporate, Commercial & Community Services,  
Director Engineering and Works and Director Blue Haven

## **1 APOLOGIES**

Apologies were tendered on behalf of Councillors Rice and Steel who have both been granted leave of absence.

**OC-17/195**

**Resolved** that the apologies as tendered be accepted.

(Councillors Sloan and Way)

## **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 on 19 September 2017**

**OC-17/196**

**Resolved** that the Minutes of the Ordinary Council Meeting held on 19 September 2017 be received and accepted.

(Councillors Brown and Westhoff)

## 4 BUSINESS ARISING FROM THE MINUTES

### 4.1 Donation of Books – Graham Mackie

*OC-17/197*

**Resolved** that Council thank Graham Mackie for his generous donation of his Kiama history books.

(Councillors Brown and Westhoff)

### 4.2 Item 10.3 Delegates to Other Bodies - Australian Coastal Council Association (ACCA)

*OC-17/198*

**Resolved** that the Australian Coastal Council Association be added to the list of Delegates to Other Bodies with Councillor Reilly as the current delegate. Further, that it be noted that the ACCA Annual General Meeting is to be held in November 2017 and that Councillor Reilly will be endorsed to stand for election to the Board.

(Councillors Sloan and Westhoff)

## 5 PUBLIC ACCESS

Peter Stuckey	7.1	Minutes of the Walking Tracks & Cycleways Committee held 13 September 2017 – Item 2.7 Coastal Walking Track – Werri Lagoon footbridge
David Friedlieb	14.7	Question for Future Meeting: Cedar Grove Stage 2 - Access
David Connolly	16.1	Rescission Motion – Item 9.4 Planning Proposal Iluka Reserve
Adam Smith	16.1	Rescission Motion – Item 9.4 Planning Proposal Iluka Reserve

## 6 MAYORAL MINUTE

### 6.1 Congratulations to Ali Day

*OC-17/199*

**Resolved** that Council extend its congratulations to former Kiama resident, Ali Day, who recently won his 5<sup>th</sup> Coolangatta Gold title.

(Councillors Honey and Brown)

*OC-17/200*

**Resolved** that at this time 5.11pm, Council bring forward and deal with Supplementary Mayoral Minutes Items 15.1 and 15.3.

(Councillors Sloan and Way)

### 15.1 Kiama Urban Strategy

*OC-17/201*

**Committee recommendation** that Council:

1. not support any new planning proposals that involve new residential land outside the identified town boundaries referred to in the adopted urban strategy areas;
2. seek the Member for Kiama's assistance in ensuring that the NSW Government does not support any planning proposals that involve land outside the identified town boundaries referred to in the adopted urban strategy areas; and
3. seek the Member for Kiama's urgent assistance in progressing the rehabilitation and development of the Bombo quarry area which provides significant opportunity to meet the Municipality's housing needs for at least the next 20 years.

(Councillors Honey and Westhoff)

For: Councillors Brown, Honey, Sloan, Watson, Way and Westhoff

Against: Councillor Reilly

**15.3 Request for donation - Remembering Kiama District Hospital book****OC-17/202**

**Committee recommendation** that Council contribute \$2500 towards the printing of the Remembering Kiama District Hospital book.

(Councillors Honey and Reilly)

**7 MINUTES OF COMMITTEES****7.2 Blue Haven Advisory Committee - Minutes****OC-17/203**

**Resolved** that the Minutes of the Blue Haven Advisory Committee Meeting held on 6 September 2017 be received and accepted.

(Councillors Westhoff and Reilly)

**7.3 Minutes of Kiama Local Traffic Committee Meeting - 3 October 2017****OC-17/204**

**Resolved** that the Minutes of the Kiama Local Traffic Committee Meeting held on 3 October 2017 be received and accepted.

(Councillors Way and Reilly)

**COMMITTEE OF THE WHOLE****OC-17/205**

**Resolved** that at this time, 5.17pm, 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 Director Community Services
- Addendum to Reports

(Councillors Brown and Way)

## 8 PUBLIC ACCESS REPORTS

### OC-17/206

**Committee recommendation** that at this time, 5.17pm, Council bring forward and deal with the matters pertaining to the Public Access Meeting.

(Councillors Brown and Westhoff)

### 7.1 Walking Tracks and Cycleways Committee - Minutes - meeting 13 September 2017

#### OC-17/207

**Committee recommendation** that the Minutes of the Walking Tracks and Cycleways Committee Meeting held on 13 September 2017 be received and accepted and the attachment be noted.

(Councillors Brown and Watson)

### 14.7 Question for Future Meeting: Cedar Grove Stage 2 - Access -

#### Motion

It was **moved** by Councillor Reilly and **seconded** by Councillor Brown that this matter be deferred for one month to allow Council staff to develop a further report which provides equal consideration of the proposal for a second access to Cedar Grove Stage 2 by Backsaddle Pty Ltd.

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

For: Councillors Brown, Reilly and Watson

Against: Councillors Honey, Sloan, Way and Westhoff

### 16.1 Rescission Motion - Item 9.4 Planning Proposal Iluka Reserve

#### Motion

It was **moved** by Councillor Reilly and **seconded** by Councillor Watson that Minute

No. OC-17/161 of the Ordinary Council meeting held on 19 September 2017 regarding the Planning Proposal for part of Lot 34 DP28122 and part of Lot 243 DP30200, Iluka Reserve, Kiama Downs be rescinded.

(Councillors Reilly and Watson)

The **Motion** on being Put was **Lost**

For: Councillors Brown, Reilly and Watson

Against: Councillors Honey, Sloan, Way and Westhoff

## 9 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

### 9.1 10.2016.231.1 - PSEC Project Services Pty Ltd v KMC - Land & Environment Court Appeal against refusal

#### *OC-17/208*

**Committee recommendation** that , subject to the receipt of quotes that are acceptable, Council engage either Marsdens Law Group or Lindsay Taylor Lawyers to act on Council's behalf to defend the subject appeal to the Land & Environment Court and engage a consultant town planner to provide expert evidence in support of the appeal.

(Councillors Brown and Watson)

For: Councillors Brown, Honey, Reilly, Sloan, Watson, Way and Westhoff

Against: Nil

## 10 REPORT OF THE GENERAL MANAGER

### 10.1 Request for Donation - Lions Club of Gerringong

#### **Disclosure of Interest - Councillor Westhoff**

Councillor Westhoff declared a non-significant non-pecuniary interest in this matter as he is a member of the Gerringong Lions Club.

#### *OC-17/209*

**Committee recommendation** that Council donate the provision of waste services for Mick Cronin Oval for the Lions Club of Gerringong's Car Show in February 2018. Further, that the Lions Club of Gerringong be advised Council would appreciate appropriate recognition of Council's support of the event on behalf of the community.

(Councillors Westhoff and Brown)

## 11 REPORT OF THE DIRECTOR FINANCE, CORPORATE AND COMMERCIAL SERVICES

### 11.1 Cooke Park Fitness Training Activities

OC-17/210

**Committee recommendation** that:

1. Council allow the continuation of fitness training activities at Cooke Park Gerringong, as currently provided for under Council's Policy for the use of public reserves for commercial fitness activities and personal training (Dec 2016).
2. Fitness training activities at Cooke Park be limited to 6.00am to 7.00am (Monday, Thursday and Friday) and 7.00am to 8.00am (Saturday).
3. Class numbers be limited to 11 where possible, which is the lowest number of participants in the approved category.
4. Parking be limited to the top carpark.

(Councillors Watson and Brown)

Councillor Westhoff requested that his name be recorded as Against the motion.

### 11.2 Statement of Investments - September 2017

OC-17/211

**Committee recommendation** that the information relating to the Statement of Investments for September 2017 be received and adopted.

(Councillors Brown and Way)

### 11.3 Economic Development Committee Meeting Minutes- 26 September 2017

OC-17/212

**Committee recommendation** that Council endorse the minutes and the recommendations contained in the minutes of the Economic Development Committee Meeting of 26 September 2017.

(Councillors Brown and Watson)



**11.4 Audit, Risk and Improvement Committee - External Independent Members - Expressions of Interest****OC-17/213**

**Committee recommendation** that the following people be appointed as the external, independent members to Council's Audit, Risk and Improvement Committee:

Brian MacDonald

Brian Robertson

Dr Philip Ross

(Councillors Brown and Westhoff)

**11.5 Roads & Maritime Services Lease - Corner Terralong Street and Spring Creek Drive, Kiama****OC-17/214**

**Committee recommendation** that Council:

1. Consent to the lease as detailed in this report;
2. Give the Mayor and General Manager delegated authority to affix the Seal of Council to the lease and/or sign the leases as required; and
3. Council pay the legal costs associated with the lease transaction (approximately \$2,000.00 including GST).

(Councillors Brown and Watson)

**11.6 Interstate Conference - Global Eco Asia-Pacific Tourism Conference****OC-17/215**

**Committee recommendation** that Council grants approval for Council's Manager Tourism and Events, Karen Ronning, and one councillor to attend the Global Eco Asia-Pacific Tourism Conference in Adelaide on 27-29 November 2017.

(Councillors Brown and Watson)

**12 REPORT OF THE DIRECTOR ENGINEERING AND WORKS**

Nil

**13 REPORT OF THE DIRECTOR COMMUNITY SERVICES**

Nil

**14 REPORTS FOR INFORMATION****OC-17/216**

**Committee recommendation** that the following Reports for Information listed for the Council's consideration be received and noted

- 14.1 Minnamurra Progress Association Inc - Minutes - meeting 5 September 2017
- 14.2 South Precinct Committee - Minutes - meeting 21 September 2017
- 14.3 Better Waste and Recycling Fund 2017-18 Payment
- 14.4 Container Deposit Scheme "Return and Earn"
- 14.5 Building Better Regions Funding success - Kiama - the making of a great place to work rest and play
- 14.6 Youth Advisory Committee - Minutes - meeting 7 September 2017
- 14.8 Question for future meeting: shade sail and play equipment upgrade to the playground between Tombonda Drive and Whitton Place, Kiama
- 14.10 Short Term Holiday Lettings Options Paper
- 14.11 Councillors Meeting Register
- 14.12 Questions for Future Meetings Register as at 9 October 2017
- 14.13 Question for Future Meeting: Community Noticeboard
- 14.14 Conference Attendance Template.

(Councillors Sloan and Way)

**14.9 Cemetery Policy****OC-17/217**

**Resolved** that Council adopt the recommended fee proposal and that it be placed on public exhibition for 28 days.

(Councillors Brown and Westhoff)

**RESUMPTION OF ORDINARY BUSINESS****OC-17/218**

**Committee recommendation** that at this time, 5.58pm, Council resume the ordinary business of the meeting with all Councillors and Staff present at the adjournment of the meeting being present.

(Councillors Brown and Westhoff)

## ADOPTION OF COMMITTEE OF THE WHOLE REPORT

### *OC-17/219*

**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 17/206 to 17/218 above.

(Councillors Sloan and Way)

## 15 ADDENDUM TO REPORTS

### *OC-17/220*

**Resolved** that at this time Council bring forward and deal with matters pertaining to the Addendum to Reports.

### 15.1 Kiama Urban Strategy

This item was dealt with earlier in the meeting at Item 6 Mayoral Minutes.

### 15.2 Disclosure of Interests

#### *OC-17/221*

**Resolved** that the Disclosure of Interests as tabled be received and noted.

### 15.3 Request for donation - Remembering Kiama District Hospital book

This item was dealt with earlier in the meeting at Item 6 Mayoral Minutes.

## 16 NOTICE OF MOTION

### 16.1 Rescission Motion - Item 9.4 Planning Proposal Iluka Reserve

This item was dealt with earlier in the meeting as part of Public Access.

## **16.2 Rescission of Motion - Item 15.2 - Item 9.4 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011**

### ***MOTION***

We the undersigned Councillors move a rescission motion against Committee Recommendation 16 (15.2 Rescission of Motion) Notice of Motion of the resolution made in relation to the report of the Acting Director of Environmental Services item 9.4 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 at the Council meeting held on 19 September.

The new motion be:

That Council consider all planning matters pertaining to Jamberoo at one time to ensure there is consistency in our decisions. Further, the timing of this decision is to be as close as possible to the time in which Council determines the DCP for Jamberoo that is currently being considered by the community and Council.

The **Rescission Motion** on being Put was **Lost**

For: Councillors Brown, Reilly and Watson

Against: Councillors Honey, Sloan, Way and Westhoff

## **17 QUESTIONS WITHOUT NOTICE**

### **17.1 Relocation of Council's Administration Centre**

Councillor Reilly requested a report examining the relocation of Council's Administration Centre from Manning Street suggesting alternative sites including Belvedere Street and concurrent with this report produce a report on the adaptive re-use of the current structure considering a multilevel carpark for public use and boutique hotel and penthouse apartments. The old council chambers should remain and become a focal point of the adaptive re-use of the complex.

The Mayor referred the matter to the General Manager for investigation and report.

### **17.2 Neighbourhood character -**

Councillor Reilly requested a report on assessing context and the neighbourhood character of the Kiama LGA and how this can be integrated into our planning controls. He referred officers to the Torquay-Jan Juc neighbourhood character study

review 2012 and to consider consultation with the Planning Institute of Australia, Diana Griffiths – Director Urban Design, Studio GL.

The Mayor referred the matter to the Acting Director Environmental Services for investigation and report.

### 17.3 Local Environmental Plan

Councillor Reilly requested that the following points be included in the Kiama LEP:

1. To maintain the architectural excellence and respect the character of our towns and villages.
2. Dual occupancies only be permitted on corner blocks.

The Mayor referred the matter to the Acting Director Environmental Services for investigation and report.

## 18 CONFIDENTIAL SUMMARY

### OC-17/222

**Resolved** that at this time, 6.20pm, 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 Brown 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:

#### OC-17/223

**Committee recommendation** 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 PROPOSED LAND ACQUISITION

**Reason for Confidentiality:** This matter deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council as per Section 10A(2)(dii) of the Local Government Act. .

**19.2 KIAMA AGED CARE CENTRE OF EXCELLENCE - FUNDING**

**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. .

**19.3 AUDIT, RISK AND IMPROVEMENT COMMITTEE - EXPRESSIONS OF INTEREST**

**Reason for Confidentiality:** This matter deals with personnel matters concerning particular individuals (other than councillors) as per Section 10A(2)(a) of the Local Government Act. .

**19.4 LEGAL ADVICE - ALBERT V KIAMA MUNICIPAL COUNCIL**

**Reason for Confidentiality:** This matter deals with information that would, if disclosed, prejudice the maintenance of law as per Section 10A(2)(e) of the Local Government Act. .

**19.5 ADDITIONAL INFORMATION FOR ITEM 19.4**

**Reason for Confidentiality:** This matter deals with information that would, if disclosed, prejudice the maintenance of law as per Section 10A(2)(e) of the Local Government Act. .

(Councillors Watson and Way)

**19 CONFIDENTIAL REPORTS****19.1 Proposed Land Acquisition**

**OC-17/224**

**Resolved that**

1. The General Manager be authorised to attend the auction on 19 October 2017 and bid up to the limit specified in this report.
2. The Mayor and General Manager be authorised to sign and seal any required documentation for the purchase of the land.

(Councillors Brown and Reilly)

**19.2 Kiama Aged Care Centre of Excellence - Funding****OC-17/225**

**Resolved** that Council advise TCorp that Council will, if required, provide an internal loan to the Kiama Aged Care Centre of Excellence project up to the upper limit specified in the report to cover any grant funding shortfall.

(Councillors Westhoff and Reilly)

**19.3 Audit, Risk and Improvement Committee - Expressions of Interest****OC-17/226**

**Resolved** that the report be received and noted.

(Councillors Sloan and Way)

**19.4 Legal Advice - Albert v Kiama Municipal Council****Disclosure of Interest - Councillor Sloan**

Councillor Sloan declared a potential pecuniary interest in this matter and the following matter as his wife is a partner in another Gerringong Medical Practice. Councillor Sloan took no part in discussion or voting on this matter and was absent from the Chamber during discussion of the matter.

Councillor Sloan here left the Chamber at 6.25pm

**OC-17/227**

**Committee recommendation** that Council withdraw from the proceedings and review other options available.

(Councillors Brown and Watson)

For: Councillors Brown, Honey, Reilly, Watson, Way and Westhoff

Against: Nil

**19.5 Additional information for Item 19.4****OC-17/228**

**Committee recommendation** that the information as provided be received and noted.

(Councillors Brown and Watson)

Councillor Sloan here returned to the Chamber at 6.35pm.

**Close of Confidential Committee of the Whole:**

**OC-17/229**

**Resolved** that at this time, 6.35pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors Westhoff and Brown)

**Adoption of Report**

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

**OC-17/230**

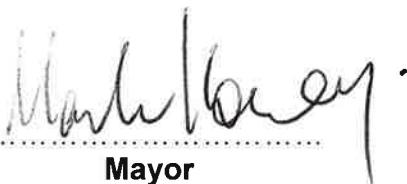
**Resolved** that that the Confidential Committee of the Whole recommendations numbered 17/223 to 17/228 be confirmed and adopted.

(Councillors Westhoff and Brown)

**20 CLOSURE**

There being no further business the meeting closed at 6.36pm.

These Minutes were confirmed at the Ordinary Meeting of Council held on  
21 November 2017

  
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Mayor